



**W A V E R L E Y**  
COUNCIL

27 January 2021

A meeting of the **W A V E R L E Y LOCAL PLANNING PANEL** will be held by video conference at:

**12.00 PM WEDNESDAY, 3 FEBRUARY 2021**

**QUORUM:** Three Panel members.

**APOLOGIES:** By email to [WLPP@waverley.nsw.gov.au](mailto:WLPP@waverley.nsw.gov.au)

## AGENDA

### **WLPP-2102.A** **Apologies**

### **WLPP-2102.DI** **Declarations of Interest**

The Chair will call for any declarations of interest.

### **WLPP-2102.1** **PAGE 4** **48 Brown Street, BRONTE – Alterations and additions to existing dwelling house, including internal reconfiguration, extension to the existing front deck, entry portico and a first floor addition with front balcony. (DA-366/2020)**

Report dated 20 January 2021 from the Development and Building Unit.

**Recommendation:** That the application be approved in accordance with the conditions contained in the report.

### **WLPP-2102.2** **PAGE 49** **79 Oceanview Avenue, DOVER HEIGHTS – Alterations and additions to dual occupancy development including internal reconfiguration for an additional bedroom, two balconies and extension to the deck at ground level (DA-373/2020)**

Report dated 20 January 2021 from the Development and Building Unit.

**Recommendation:** That the application be approved in accordance with the conditions contained in the report.

### **WLPP-2102.3** **PAGE 90** **131 Military Road, DOVER HEIGHTS - Demolition of existing dwelling and construction of a two-storey attached dual occupancy with basement parking, swimming pools, landscape works, roof terraces and associated Strata subdivision (DA-259/2020)**

Report dated 20 January 2021 from the Development and Building Unit.

**Recommendation:** That the application be approved in accordance with the conditions contained in the report.

**WLPP-2102.4**

**PAGE 155**

**59 Lamrock Avenue, BONDI BEACH - Two (2) lot Torrens title subdivision of approved dual occupancy (DA-414/2020)**

Report dated 22 January 2021 from the Development and Building Unit

**Recommendation:** That the application be refused for the reasons contained in the report.

**WLPP-2102.5**

**PAGE 174**

**144 Warners Avenue, BONDI BEACH - Review of refusal of alterations and additions to a residential flat building including attic addition (DA-409/2019/1)**

Report dated 22 January 2021 from the Development and Building Unit.

**Recommendation:** That the application be approved in accordance with the conditions contained in the report.

**WLPP-2102.6**

**PAGE 233**

**30 Yanko Avenue, BRONTE - Alterations and additions to dwelling including internal reconfiguration, demolish and replace and extend existing first floor and extend lower ground floor level containing parking, cellar and laundry (DA-328/2020)**

Report dated 25 January 2021 from the Development and Building Unit.

**Recommendation:** That the application be refused for the reasons contained in the report.



## Waverley Local Planning Panel

<b>Application number</b>	DA-366/2020
<b>Site address</b>	48 Brown Street, BRONTE
<b>Proposal</b>	Alterations and additions to existing dwelling house, including internal reconfiguration, extension to the existing front deck, entry portico and a first floor addition with front balcony.
<b>Date of lodgement</b>	3 November 2020
<b>Owner</b>	Mr C R Brown and Mrs N M Brown
<b>Applicant</b>	Ezer Styles Architecture
<b>Submissions</b>	One
<b>Cost of works</b>	\$498,300
<b>Issues</b>	Height of Building, Habitat Corridor, Deep soil
<b>Recommendation</b>	That the application be APPROVED

**Site Map**



## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 25 November 2020.

The site is identified as Lot 1 in DP580955, known as 48 Brown Street, BRONTE. The site is rectangular in shape with an eastern frontage of 15.575m, a western rear boundary of 15.365m, a northern side boundary of 24.015m and a southern side boundary of 23.715m. The site has an area of 361.2m<sup>2</sup> and the site falls from the west towards the east by approximately 5.28m.

The site is occupied by a single storey detached dwelling with vehicular access provided from Brown Street to a garage located at the lower level.

The subject site is adjoined by detached dwellings on either side. The locality is characterised by a majority of detached and semi-detached dwellings.



**Figure 1:** Site viewed from Brown Street



**Figure 2:** Rear private open space of the subject site

## **1.2 Relevant History of the Site**

No relevant history.

## **1.3 Proposal**

The application is for alterations and additions to the existing dwelling house including a first floor addition. In detail the works will consist of:

### Basement

- Proposed entry courtyard;
- Retain existing garage and provide internal stairs to access ground floor;
- Demolish existing external stairs; and
- Demolish part of the existing front fence and construct part of a new front fence and entry portico.

### Ground Floor

- Internal layout changes to living, dining, eating and kitchen areas;
- New bathroom;
- Proposed laundry;
- Proposed stairs to first floor; and
- Extend existing front deck.

### First Floor (proposed)

- Family room;

- Master bedroom with associated ensuite;
- Bathroom;
- Two x bedrooms; and
- Balcony to front.

The application was deferred, as the following was required to be submitted:

- A clause 4.6 variation for the height exceedance;
- The front first floor balconies to be reduced in size;
- A 1.8m high privacy screen to be provided to the southern side of the first-floor balcony;
- The front fence is to be solid to match the neighbours solid front fence. The remaining height to be 50% open; and
- Amended shadow diagrams to be provided showing the additional overshadowing a different colour.

Some of these details and documentation was submitted by the applicant on 14 December 2020.

## **2. ASSESSMENT**

The following matters are to be considered in the assessment of this Development Application (DA) under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### **2.1 Planning Instruments and Development Control Plans**

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### **2.1.1 SEPP (Building Sustainability Index – BASIX) 2004**

A BASIX Certificate has been submitted with the DA.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are incorporated into the Construction Certificate drawings and implemented.

#### **2.1.2 SEPP 55 Remediation of Land**

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

#### **2.1.3 SEPP (Vegetation in Non-Rural Areas) 2017**

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP) regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016.

In accordance with Part 3 of the Vegetation SEPP, a permit is required from Council to clear any vegetation in an area identified:

- (i) Any vegetation on Land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012;
- (ii) Any vegetation on Land identified as 'Biodiversity Habitat Corridor' in WDCP2012; or
- (iii) A tree identified on the Waverley Significant Tree Register; or
- (iv) A tree or vegetation that forms part of a Heritage Item or is within a Heritage Conservation Area;
- (v) Any tree with a height of five metres or greater and trunk width of 300mm or greater at ground level; or
- (vi) Any tree with a canopy spread of five metres or greater and trunk width of 300mm or greater at ground level.

#### Planners Comment

The property lies within the coastal biodiversity corridor. A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the Waverley Development Control Plan 2012 (WDCP) as per Part B, Section 3.2.2, Control (a) of the WDCP. The submitted plans do not contain sufficient information to be assessed against this control. The plans need to include:

- (i) a list of existing plant species and their numbers, and
- (ii) a planting schedule of proposed species and numbers of those species.

A condition of consent is recommended requiring a compliant landscape plan to be provided to Council for approval prior to the issue of a Construction Certificate.

#### **2.1.4 Waverley Local Environmental Plan 2012 (WLEP)**

The relevant matters to be considered under the WLEP for the proposed development are outlined below:

**Table 1: WLEP Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the WLEP.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <i>Low Density Residential 'R2' Zone</i>	Yes	The proposal is defined as dwelling house, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings (HOB) <ul style="list-style-type: none"> <li>• 8.5m</li> </ul>	No. Clause 4.6 submitted.	The development results in an overall height of 9.622m.  This exceeds the height standard by 1.12m or 13.2%.
4.4 Floor Space Ratio (FSR) and 4.4A Exceptions to FSR <ul style="list-style-type: none"> <li>• Site Area: 361.2m<sup>2</sup></li> <li>• Max FSR: 0.71:1</li> <li>• MAX GFA: 255.6m<sup>2</sup></li> </ul>	Yes	TOTAL GFA: 202.7m <sup>2</sup>  TOTAL FSR: 0.56:1



Provision	Compliance	Comment
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of WLEP to vary the height of building development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	Some earthworks are proposed for the entry courtyard. These earthworks are appropriate and will not result in any adverse environmental impacts.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the WLEP.

#### **Clause 4.6 Exceptions to Development Standards - HOB**

The application seeks to vary the HOB development standard in Clause 4.3 of the WLEP.

The site is subject to a maximum height control of 8.5m. The proposed development has a height of 9.62m, exceeding the standard by 1.12m equating to a 13.2% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the WLEP seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal meets the objectives of the height of building development standard in the WLEP:
    - a. *Objective: to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views.*
    - i. *The site slopes dramatically some 6 metres from the rear to the street. The proposed first floor addition has been setback a minimum 4.8 metres from the front boundary and stepped such that the south eastern corner is setback further (a minimum 6.5 metres from the front boundary). This has*

*been done due to the site topography and to minimise the overall height. These setbacks preserve the amenity of the neighbouring properties and reduce bulk and scale of the dwelling from the streetscape.*

- ii. The proposed low pitched skillion roofs to the front of the dwelling allows northern sun to be captured through the hi lite windows in the high part of the skillion whilst reducing the height of dwelling. A gable or hipped roof structure would create in the centre of the dwelling where the overall height above natural ground would be the greatest.*
- iii. The existing hipped roof ridge is currently RL 62.964. Whilst the proposal has a maximum height of RL 64.075, which is only 1100mm higher.*
- iv. The proposed roof form also creates a low point in the middle between the two roof forms that encourages view sharing.*
- v. The existing trees are higher than the proposed maximum height and as such will not impact the views from the property to the rear.*

*b. Objective: to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

- i. The proposal involves the removal of the front bay window and associated garage below. The removal of this structure will reduce the bulk to the street. The ground floor deck and first floor balcony that are proposed to be installed at the front instead will create less bulk to the street and will instead enhance the streetscape.*
- ii. The proposed 2 storey structure is compatible with the streetscape that consists of many 2 and 3 storey dwellings. The proposed maximum height of RL 64.075 (of the development) is lower than the adjoining property on the southern side (No 46) with a maximum RL 65.29 and the adjoining property on the northern side (No 50) with a maximum RL 68.24.*
- iii. The height and bulk of the proposal is in keeping with the desired future character and complements the streetscape with its articulation and stepped massing and interesting roof forms.*

*(b) That there are sufficient environmental planning grounds to justify contravening the standard:*

- a. Compatibility with the character of the area will be maintained in terms of bulk and scale.*
- b. The nature of the site means that the maximum height of 8.5m is difficult to achieve at various points on the site however steps have been taken to try best to achieve this while still designing a dwelling that is functional and aesthetically pleasing.*
- c. The low pitched skillion roof forms have enabled the development to achieve good solar access while minimising the overall height and creating a view corridor.*

### Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard referencing the development is compatible with the character of the area. The development will be lower in height than the dwellings to either side and will not result in any adverse environmental impacts in terms of view loss, overshadowing or visual and acoustic privacy impacts. It is noted that the reason the development exceeds height is due to the steep topography of the land.

### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out including;

The objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

Objectives of (b) and (c) are not relevant to the proposal as the subject site is not contained within the Bondi Junction Centre.

The height non-compliance relates to a portion of the roof form only. The extent of the non-compliance varies, with a maximum non-compliance of 1.12m.

The non-compliance is attributed to the unique characteristic of the site, with a significant drop to the southern ground level due to the garage and associated driveway, this is demonstrated in **Figure 3**.



**Figure 3:** Front elevation, which shows the ground level of the site dropping significantly to the southern side due to the parking arrangements. Ground level shown dashed yellow.

Notwithstanding the height non-compliance, the proposed development:

- Is significantly below the height of the neighbouring dwellings at No's 46 and 50 Brown Street. No. 46 Brown Street has a ridge that is 1.215m higher than the tallest ridge of the subject site. No. 50 Brown Street is in an elevated position in comparison to the subject site, with a 4.165m difference in ridge heights.

- The development exceeds the height standard due to the drop to the southern side at the front of the site. The dwelling is compliant in height in all other areas (i.e to the northern side and rear of the dwelling)
- The development is compatible with the existing and desired bulk and scale of the streetscape, as it sits comfortably below the neighbouring dwellings. Additionally, the development is compliant with the FSR development standard; the proposal generally complies with setbacks controls and is smaller in scale and bulk than adjoining dwellings.
- As will be detailed below, the proposed development will not unreasonably impact on iconic views enjoyed by neighbouring properties to the west, specifically 10 Seaview Street. It is noted that strict compliance with the development standard and stepping down of the dwelling at the front, offers no significant benefit to the surrounding properties with regard to view loss.
- The development will not result in unreasonable overshadowing of the adjoining dwelling at No. 46 Brown Street. The non-compliant roof form largely casts shadows over the front open space of the dwelling itself and the road reserve. Therefore, strict compliance with the development standard and stepping down of the dwelling at the front offers no material benefit to solar access.

Given the above analysis, it is considered that the proposal is consistent with the streetscape, the desired future character of the area and objectives (a) and (d) of the HOB development standard.

The objectives of the R2 – Low Density Residential zone are:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is consistent with the objectives of the zone, in that it provides housing needs for the community, within a low-density environment and scale. The remaining objective is not relevant to this application.

#### Conclusion

For the reasons provided above, the requested variation to the height of building is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the WLEP. The proposed development would be in the public interest because it is consistent with the objectives of height of building and the R2 Low Density Residential zone.

#### **2.1.5 Waverley Development Control Plan 2012 (WDCP)**

The relevant matters to be considered under the WDCP for the proposed development are outlined below:

**Table 2: WDCP – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	<p>A Site Waste &amp; Recycling Management plan has been submitted with the application to address waste disposal during construction. A condition of consent is recommended regarding the treatment of on-going waste.</p> <p>The waste and recycling storage area is located in an area convenient for users of the site.</p>
2. Ecologically sustainable Development	Yes	<p>A BASIX Certificate has been submitted and is acceptable.</p>
3. Landscaping and Biodiversity	Conditions recommended.	<p>The application was referred to Council's Biodiversity Officer and conditions are recommended regarding landscaping on the site. The site is located within a Habitat Corridor, therefore a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the WDCP.</p>
5. Vegetation Preservation	Yes	<p>An internal referral was sought from Council's Tree Officer due to the landscape works and proximity to street trees. Council's Tree Officer has reviewed the application with no issues raised.</p> <p>Standard conditions regarding tree protection are recommended.</p>
6. Stormwater	Conditions recommended.	<p>The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. Suitable conditions are recommended.</p>
8. Transport	Conditions recommended.	<p>The garage and associated crossover are to remain as existing.</p> <p>The application was referred to Council's Traffic Engineers who have recommended conditions during the construction stage of the development.</p>
11. Design Excellence	Yes	<p>The development is considered to encompass design excellence. The development will provide housing that meets the needs of the occupants, while retaining the ground floor. The development will utilise a variety of colours and materials that will assist in creating articulation and visual interest.</p>

Development Control	Compliance	Comment
14. Excavation	Acceptable on merit.	Some excavation will occur to the entry courtyard. The excavation will assist in creating better access and egress to the dwelling, while not adding to visual bulk and scale of the dwelling.  Although some of the work will be less than 0.9m from the side boundary it is considered to be acceptable.

**Table 3: WDCP – Part C2 Low Density Residential Development Compliance Table**

The proposal is defined as a “Dwelling House” in the WLEP.

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>• Appropriate scale</li> <li>• Does not detract from amenity of other dwellings or view corridors</li> <li>• ESD has been considered</li> <li>• Alterations &amp; additions are sympathetic in bulk &amp; scale to the character of the area</li> <li>• High design standard</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the WDCP.
<b>2.1 Height</b>		
Pitched Roof dwelling house <ul style="list-style-type: none"> <li>• Maximum external wall height of 7m</li> </ul>	Acceptable on merit	The development will have a maximum continuous wall height of 7.1m; this is taken from the southern side of the front elevation. This minor breach is considered to be acceptable, as there will be minimal environmental impacts, as will be further demonstrated within this table.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>• Predominant front building line</li> </ul>	N/A  Yes	<u>Front Ground Floor Setback</u> This external wall will not be amended. The front deck will be consistent with the front deck of 46 Brown Street.  <u>Front First Floor Setback</u> See discussion.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Predominant rear building line at each floor level</li> </ul>	Acceptable	<p><u>Rear Ground Floor Setback</u> The proposed laundry room to the rear, will not extend past the existing rear laundry room that is proposed to be demolished and replaced.</p> <p><u>Rear First Floor Setback</u> See discussion.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> <li>Minimum of 0.9m</li> </ul>	Yes	All side setbacks are setback more than 0.9m from the side boundaries.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style &amp; proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> <li>Porticos only permitted where a character of the streetscape</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>Brown Street generally consists of traditional style dwellings, with an absence of highly contemporary houses (i.e flat roof and glass façade). The proposed works are reflective of the style of dwellings seen in the streetscape, that being a more traditional first floor addition.</p> <p>Door and window openings on the first floor addition will complement the door and window openings of the existing ground floor.</p>
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	Acceptable on merit.	<p>The portion of the proposed front fence (southern side of front boundary) is 1.8m in height. Although this exceeds the recommended front fence height of 1.2m, it is acceptable given it has an appropriate streetscape appearance, relating well to the existing retaining wall to the northern side of the front boundary.</p> <p>The front fence has been amended to be more compliant with the WDCP, by reducing the solid portion of the front fence, ensuring it will not exceed the height of the solid portion of the neighbouring fence at 46 Brown Street, with the remaining top portion being of a 50% open design.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other</li> </ul>	Yes	<p><u>Windows</u> The proposed windows are acceptable.</p> <p><i>Front Elevation</i> The larger windows to the front elevation are appropriate as they overlook Brown Street, providing casual surveillance.</p>



Development Control	Compliance	Comment
<p>appropriate measures are incorporated into the design.</p> <ul style="list-style-type: none"> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>See discussion</p> <p>See discussion</p>	<p><u>Southern Elevation</u> W20 is accessed from the living room and has a sill height of 1.8m from Finished Floor Level (FFL), restricting overlooking.</p> <p>W9 is accessed from a bedroom and any overlooking will be obstructed by the proposed privacy screen located on the southern side of the front first floor balcony.</p> <p><u>Northern Elevation</u> Ground floor windows will be obstructed by a steep vegetated bank.</p> <p>W12 (bedroom) is a highlight window and will not result in overlooking</p> <p>W13 and W14 (bathrooms) are acceptable as any privacy concerns will be reduced through existing vegetation and the steep vegetated bank to the north. Windows from the neighbouring dwelling will not look directly into these windows.</p> <p>W15 (bedroom) has a sill height of 1.6m from FFL, this is considered a high enough sill to mitigate visual privacy issues.</p> <p><u>Rear Elevation</u> Overlooking will be obstructed by a steep vegetated bank to the rear of the dwelling.</p> <p><u>Ground Floor Deck</u> The deck will be increased in size having a depth of 2.6m and an area of 30m<sup>2</sup>.</p> <p><u>First Floor Balcony</u> The proposed balcony will have a depth of 2m and an area of 20.2m<sup>2</sup>.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>With 46 Brown Street located to the south of the proposed development, there will always be some form of shadowing that will occur on this lot.</p> <p><u>9am</u> Some overshadowing will occur to the front deck of No. 46. Minimal additional overshadowing will occur to the private open space of the subject site.</p>

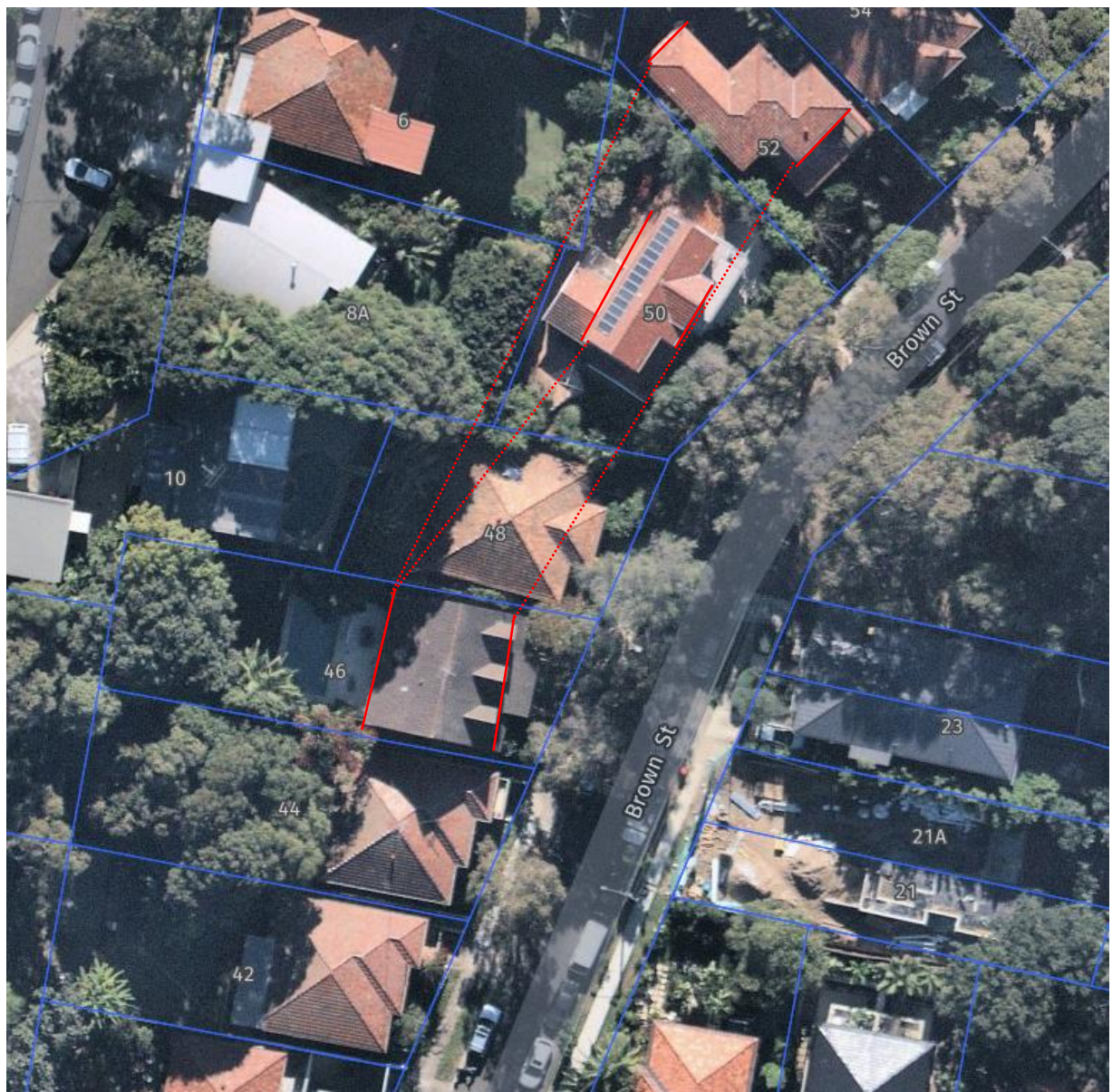
Development Control	Compliance	Comment
		<p><u>12noon</u></p> <p>Some additional overshadowing will fall on the roof of No. 46. The majority of the overshadowing will fall on the public domain.</p> <p><u>3pm</u></p> <p>No additional shadowing impacts will occur at No. 46. A small amount of additional shadowing falling on the proposed first floor balcony.</p> <p>In summary, the development has been well designed to minimise shadowing impacts to 46 Brown Street.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	See discussion	See discussion below.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No. See discussion.</p>	<p>64.8%</p> <p>16.2%</p> <p>Over 25m<sup>2</sup></p> <p>62.9%</p> <p>29.6%</p>

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the WDCP.

## Setbacks

The front setback of the first-floor addition is stepped to address the angled front boundary and to assist in meeting the varied setbacks of 46-52 Brown Street, which are not aligned due to the subdivision pattern and curve of Brown Street.

Although the rear setback of the first-floor addition extends past 50 Brown Street, it is considered acceptable. No. 50 Brown Street is a narrower lot, providing a first-floor addition with a small width. This first floor addition at No. 50 is not reflective of other first floor additions within the streetscape, which have a greater depth due to a longer lot. The proposed first-floor addition rear setback relates well to the setbacks of 46 and 52 Brown Street.



- Building line
- ⋯ Average building line

**Figure 4:** Setback Analysis

## Decks/Balconies

As discussed within **Table 3**, the ground floor deck and first floor balcony exceed the recommended depth and area outlined in the WDCP of 1.5m in depth and 10m<sup>2</sup> in area. This is considered acceptable, as the proposal will not result in adverse amenity impacts on surrounding properties, subject to a privacy screen on the southern boundary of the first-floor balcony.

Due to the existing dense vegetation and the significant distance from the neighbouring dwelling to the north, additional privacy measures are not required to this side of the development.

It is noted that there are a number of large front balconies and decks to neighbouring properties, including at No's 44, 46, 50 and 52 Brown Street.

## View Loss

In accordance with 2.7 of WDCP – *Views*, it is generally accepted that views do not 'belong' to anyone or any property, nor is a view the exclusive right to any one property or to certain individuals. 'View sharing' is an important principle to consider when developing a property.

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.

Lower density residential accommodation is to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.

In order to make a planning decision regarding the potential view loss, the judgment in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*, sets down four steps that should be undertaken to reach a decision on whether a view impact is reasonable.

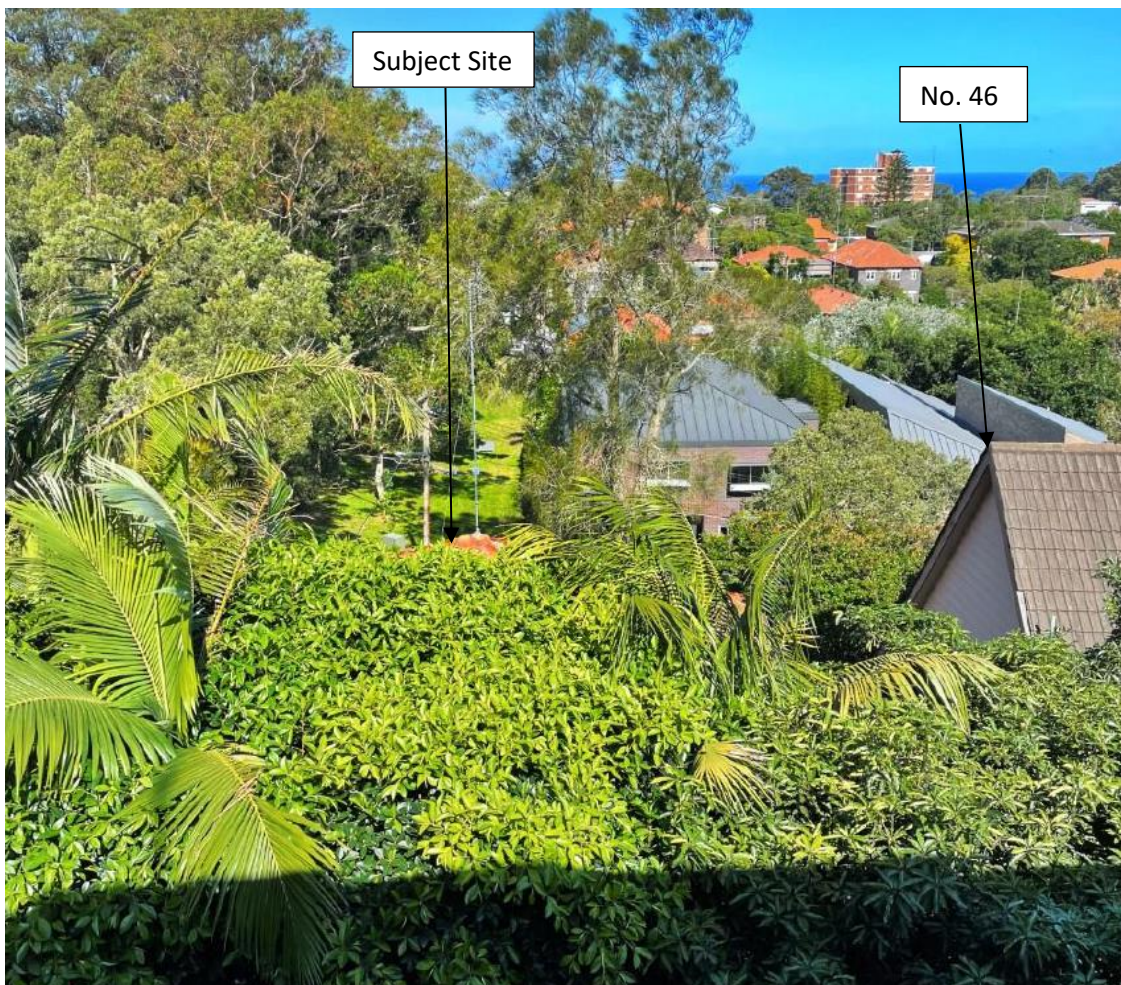
The images below, have been provided by an objector to assist in a view loss assessment.



**Figure 5:** 10 Seaview Street - rear of dwelling with view reference



**Figure 6:** View from spot 1, taken from first floor balcony



**Figure 7:** View from spot 2, taken from outlook of living and dining room on the first floor



**Figure 8.** View from spot 3, taken from the master bedroom on the ground floor



**Figure 9:** View from spot 4, taken from the bedroom/study on the ground floor

The photos have demonstrated that partial ocean views and partial views of the reserve can be accessed from the first floor, whilst partial views of the ocean only can be accessed from the ground floor.

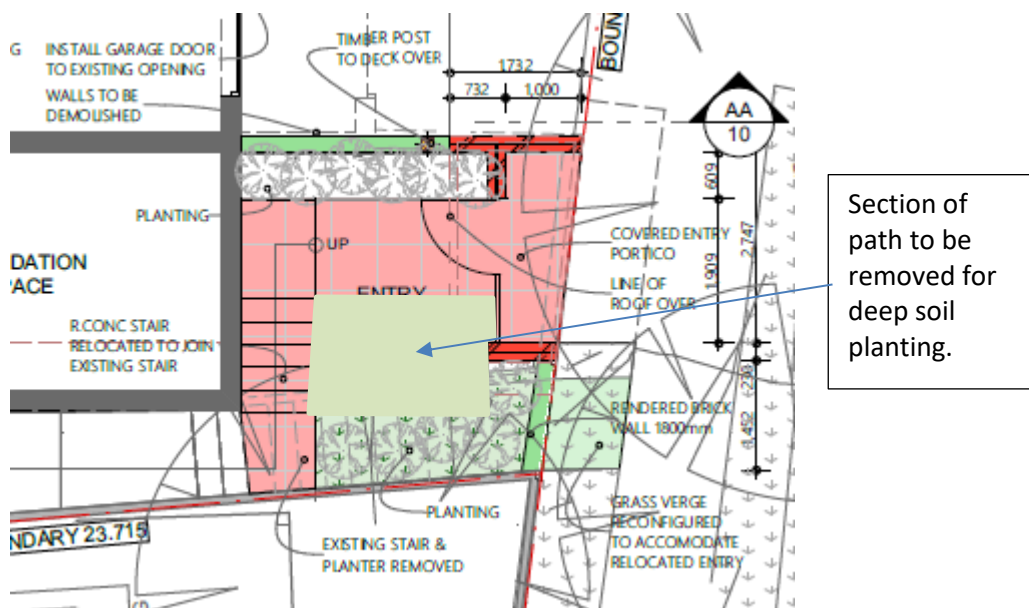
The highest point of the development is lower than the ridge of No. 46 Brown Street, a ridge that is significantly taller than the proposal (as discussed in the clause 4.6 section above). Ocean views can be obtained above this neighbouring ridge. Therefore, it is concluded the site will not lose ocean views but will lose some views of the park to the first floor. Some loss to the park is acceptable given the ocean view will be preserved, a view which is more highly valued.

The site will not lose ocean views from the ground floor, given ocean views are not currently obstructed from the ridge of 46 Brown Street, a ridge that is higher than the proposal.

Although the development exceeds the HOB standard, it has been established that this is to the drop to the southern side of the front of the site (due to the ground level) and the development is compliant in height at the rear and northern side of the development.

### Deep soil to front open space

The amount of deep soil within the front open space is non-compliant with the WDCP control. The site is unique and due to site constraints, it is difficult to achieve full compliance. However, it is considered that additional deep soil planting can be provided within the front setback through the removal of a small section of the path, as shown in **Figure 10** below. A condition is recommended that the entry courtyard to the lower ground be reduced in width to be no greater than the landing with this space being dedicated for deep soil planting.



**Figure 10:** Section of path to be removed for deep soil planting

## 2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3 Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

## 2.4 Any Submissions

The application was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

One submission was received. The issues raised in the submissions are summarised and discussed below.

**Table 4: Summary of property addresses that lodged a submission**

Property
10 Seaview Street, WAVERLEY

***Issue: Measurement of height***

**Response:** The height has been measured in accordance with the definition outlined by the WLEP. It was identified that the proposed development did not comply with height standard resulting in a clause 4.6 being submitted, which is discussed above and considered acceptable.

***Issue: Loss of Views***

**Response:** This has been discussed above.

## 2.5 Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

### 3.1 Traffic and Development

An internal referral was sought from Council’s Traffic Engineer who did not object to the proposal, subject to conditions of consent

### 3.2 Stormwater

An internal referral was sought from Council’s Stormwater Engineer who did not object to the proposal, subject to conditions of consent.

The Engineer raised issues regarding an existing front retaining wall encroaching past the lots boundary; however, this is an existing situation.

### 3.3 Biodiversity

An internal referral was sought from Council’s Biodiversity Officer who did not object to the proposal, subject to conditions of consent requiring a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1.



### 3.4 Tree Management Officer

An internal referral was sought from Council's Tree Officer, who did not object to the proposal.

## 4. SUMMARY

The application is for alterations and additions to dwelling house, including a first-floor addition.

The proposal exceeds the HOB development standard; however, this is considered to be acceptable given it is to the front of the dwelling only and is a result of the topography of the site and is supported by a well-founded Clause 4.6 variation.

The proposal is a suitable response to the existing dwelling, and it is noted that it will be significantly lower than the ridge height of the neighbouring properties at No's 46 and 50 Brown Street. In addition, the proposal will not result in significant adverse environmental impacts in terms of visual privacy, overshadowing or view loss.

The application received one submission, which has been addressed within this report.

The application is considered to be a well-designed first-floor addition that complements the dwelling and streetscape. The development is therefore recommended for approval.

### DBU Decision

The application and assessment report were reviewed by the DBU at the meeting on 15 December 2020 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: M Reid, A Rossi, B McNamara, E Finnegan

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

**Report prepared by:**



Joseph Somerville  
**Development Assessment Planner**

**Date:** 17/12/2020

**Application reviewed and agreed on behalf of  
the Development and Building Unit by:**



Bridget McNamara  
**Manager, Development Assessment  
(North/South)**

**Date:** 20 January 2021

**Reason for referral:**

- 1 Departure from any development standard in an EPI by more than 10%

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**Attachment A**  
**Conditions of the development consent**

**DA-366/2020**

**A. APPROVED DEVELOPMENT**

**1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

- (a) Architectural Plans prepared by Ezer Styles Architecture Pty. Ltd. of Project No:143/2019 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
01	Site Plan	September 2020	14/12/2020
04	Basement Floor Plan	September 2020	14/12/2020
05	Ground Floor Plan	September 2020	14/12/2020
06 / Rev A	First Floor Plan	September 2020	14/12/2020
07	Roof Plan	September 2020	14/12/2020
08 / Rev A	East and South Elevations	September 2020	14/12/2020
09	North and West Elevations	September 2020	14/12/2020
10 / Rev A	Sections	September 2020	14/12/2020

- (b) BASIX Certificate
- (c) Schedule of external finishes and colours received by Council on 02/11/2020
- (d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 02/11/2020

Except where amended by the following conditions of consent.

**2. GENERAL MODIFICATIONS**

The application is approved subject to the following plan amendments;

- (a) The width of the entry courtyard at lower ground floor is to be reduced to be no greater in width than the landing to the stairs. The remaining section is to be deep soil planting.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

**B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

## GENERAL REQUIREMENTS

### 3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### 4. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act, 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

## CONTRIBUTIONS, FEES & BONDS

### 5. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy.
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### **6. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$10,557.50 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### **7. LONG SERVICE LEVY**

A long service levy, as required under Section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

#### **8. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

#### **CONSTRUCTION MATTERS**

#### **9. HOARDING**

To ensure the site is contained during construction, if hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

#### **10. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed

and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

#### **11. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### **12. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

#### **13. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS**

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

### **STORMWATER & FLOODING**

#### **14. STORMWATER MANAGEMENT AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted to the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the Construction Certificate.

The submitted Water Management Plan prepared by Ezer Styles Architecture Pty Ltd, Project No. 143/2019, Drawing No. 03, dated September 2020, are considered unsatisfactory.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Engineer and include:

- a) OSD Details: The provided plans do not provide sufficient details of the proposed On-Site Stormwater Detention (OSD) tank and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in page 22 of the Council's Water Management Technical Manual shall be submitted.
- b) Seepage water from basement car parks and sub surface flows from structures that intersect high ground water flows shall be pumped and harvested onsite or piped to the underground stormwater drainage system. Direct or indirect piped connections to Council's street gutter is not permitted.

- c) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in™ for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **15. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## **WASTE**

### **16. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## **LANDSCAPING & TREES**

### **17. LANDSCAPE WORKS IN A HABITAT CORRIDOR**

Prior to the issue of any Construction Certificate, a landscape plan is to be submitted to and approved by Council's Executive Manager, Environmental Sustainability (or delegate) with a plant species list with a minimum of 50% of the proposed plantings (not including turfed areas) to be indigenous or local native plants as listed in Annexure B2 - 1 of the *Waverley Development Control Plan 2012*.

## **TRAFFIC MANAGEMENT**

### **18. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **19. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### **20. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners on request.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## **DEMOLITION & EXCAVATION**

### **21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;

- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- Confirm that no asbestos products are present on the subject land; or
- Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- Describe the method of demolition;
- Describe the precautions to be employed to minimise any dust nuisance; and
- Describe the disposal methods for hazardous materials.

## **22. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

## **23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014.

### **CONSTRUCTION MATTERS**

## **24. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- Sundays and public holidays;



- (b) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

## **25. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

## **26. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

## **27. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

## **28. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building

## **TREE PROTECTION AND REMOVAL**

### **29. TREE PROTECTION**

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

### **30. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;

- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **31. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **32. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **33. CERTIFICATION OF STORMWATER SYSTEM**

Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

### **34. ON-SITE STORMWATER DETENTION CERTIFICATION**

The submission of certification by a suitably qualified and practising Civil Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of the Occupation Certificate.

### **35. CREATION OF POSTIVE COVENTANT FOR ON-SITE STORMWATER DETENTION (OSD)**

A positive covenant shall be created for the OSD system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Council's Public Domain Engineer prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered

copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building.

All associated costs shall be borne by the applicant.

## **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) , in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

### **AD2. SYDNEY WATER REQUIREMENTS**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since

building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

### **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

### **AD6. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

### **AD7. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

**AD8. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

**AD9. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

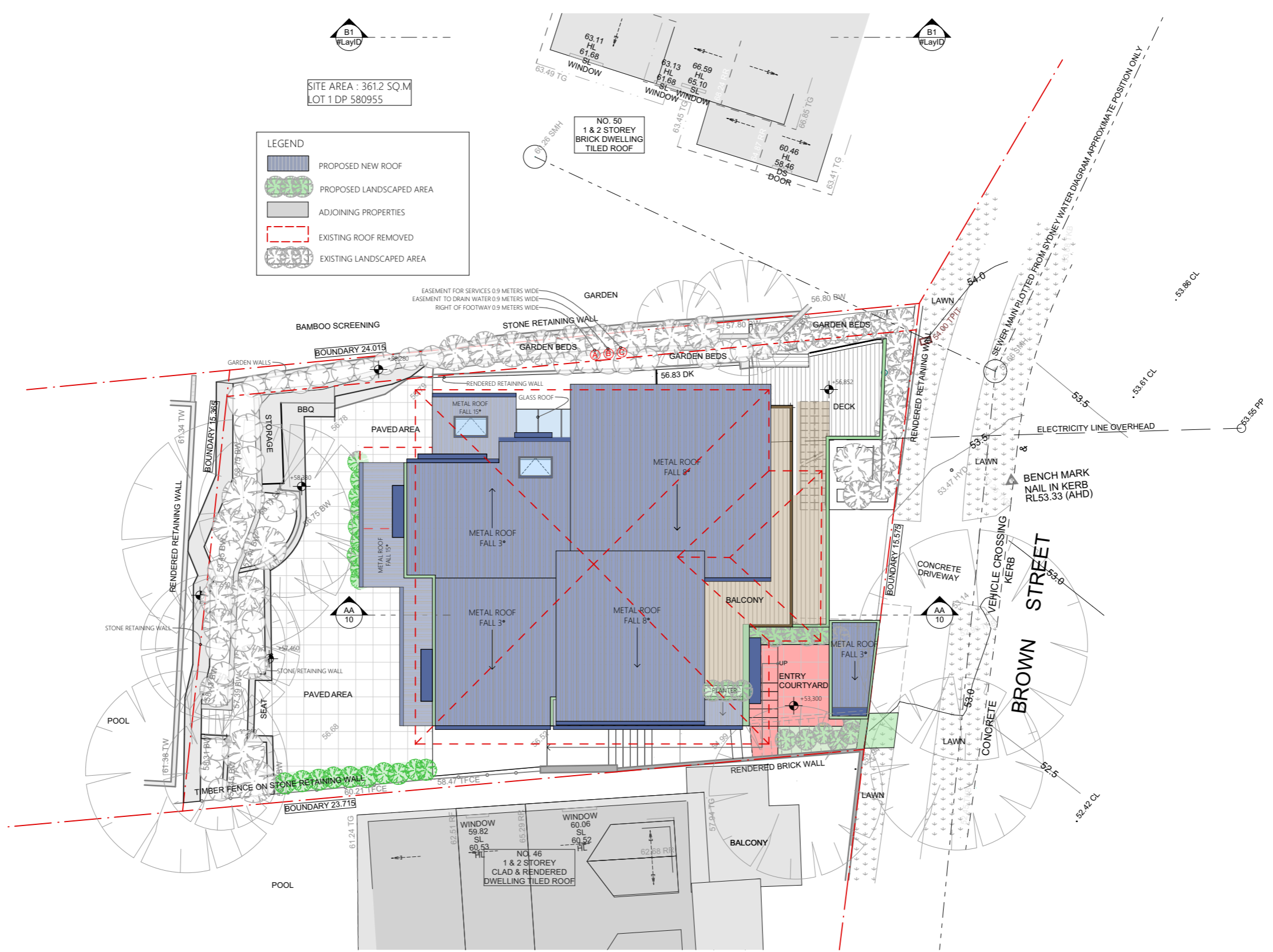
**AD10. ONGOING MAINTENANCE – STORMWATER DRAINAGE**

The stormwater detention facility must be:

- Kept clean and free from silt, rubbish and debris.
- Be maintained so that it functions in a safe and efficient manner.
- Not be altered without prior consent in writing of the Council.

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



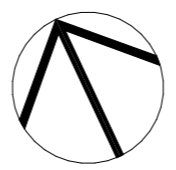
SITE PLAN



Architect  
Jacquie Ezer  
Reg No. 6655  
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Bondi Junction NSW  
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E info@ezer-styles.com

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Rev	Date	Description



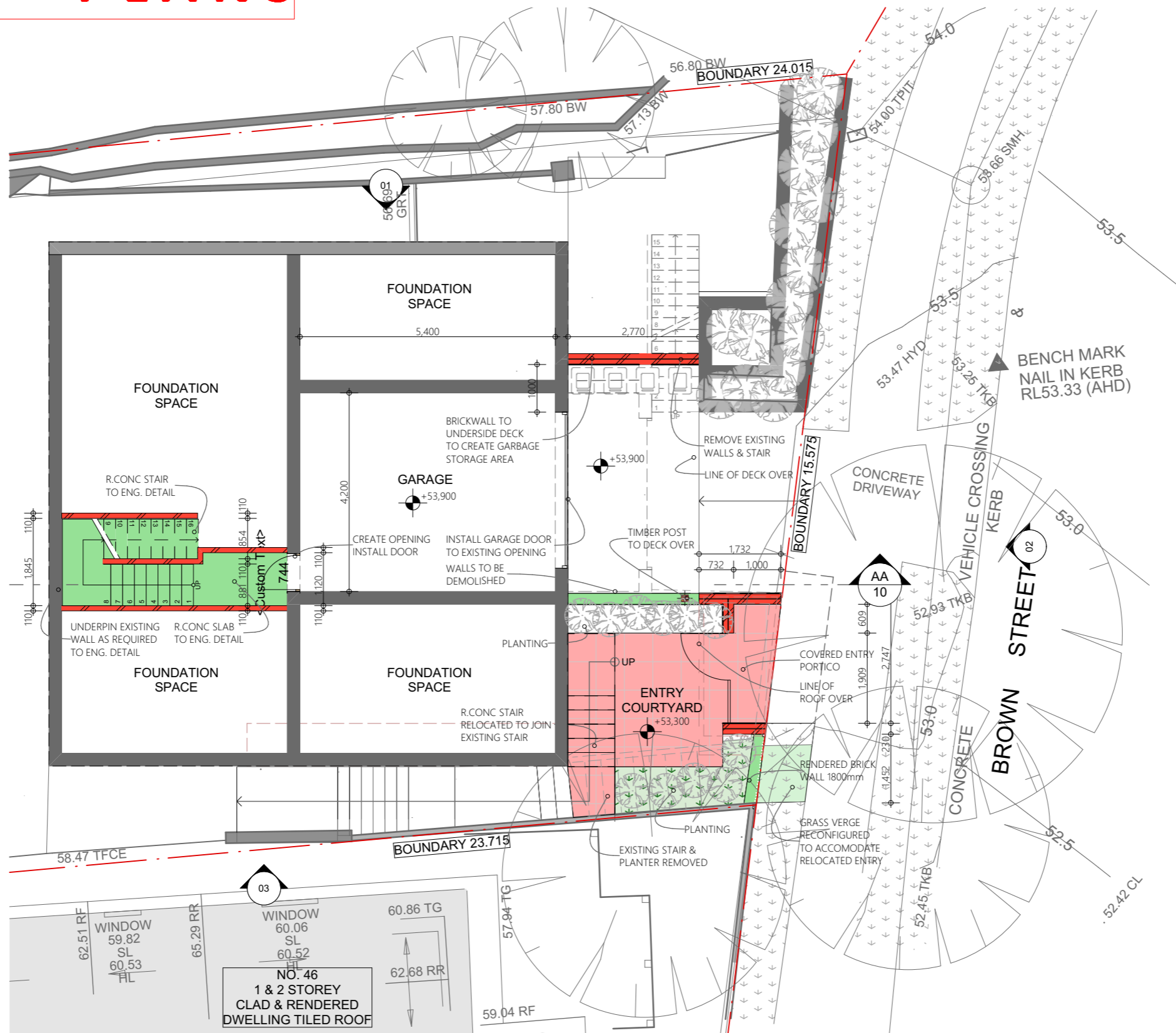
Title  
SITE PLAN

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
  
Folio identifier  
LOT 1 SEC - D.P. 580955

Scale	A3 1:150
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	Revision
01	

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



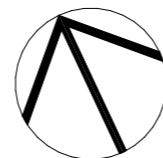
BASEMENT FLOOR PLAN



Architect  
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Rev	Date	Description



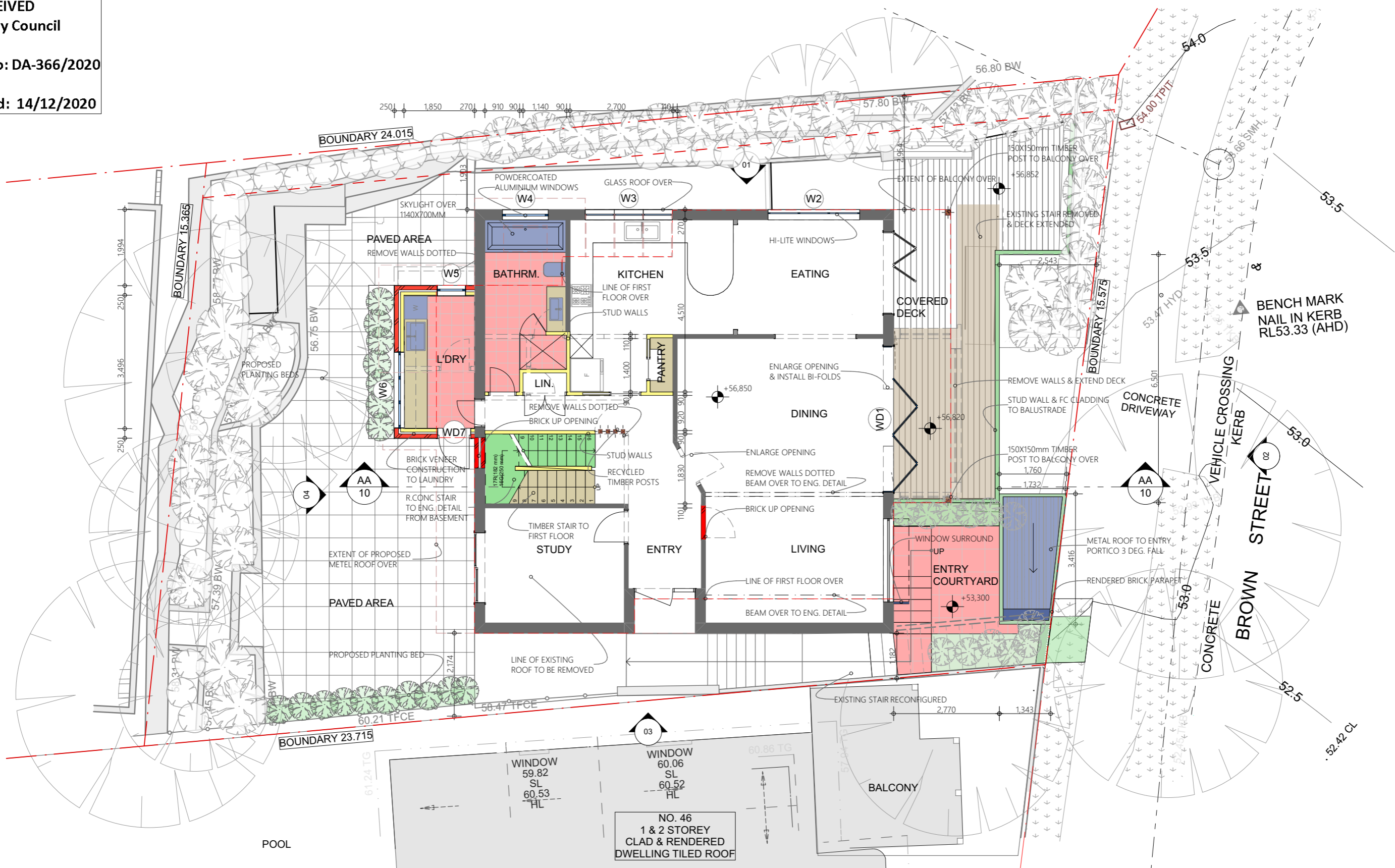
Title  
BASEMENT FLOOR PLAN

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
Folio Identifier  
LOT 1 SEC - D.P. 580955

Scale	A3 1:100
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	Revision
04	

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



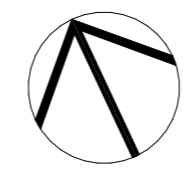
GROUND FLOOR



Architect  
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Rev	Date	Description



Title	Proposed Additions & Alterations	Scale	A3 1:100
	48 BROWN STREET, BRONTE, NSW 2024	Drawn	GF
	For Colin and Nadia Brown	Checked	JE
		Project No.	143/2019
		Date	SEPTEMBER 2020
		Drawing No.	Revision
			05



# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



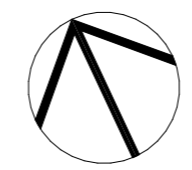
FIRST FLOOR



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Rev	Date	Description
A	12.12.2020	PRIVACY SCREEN BALCONY



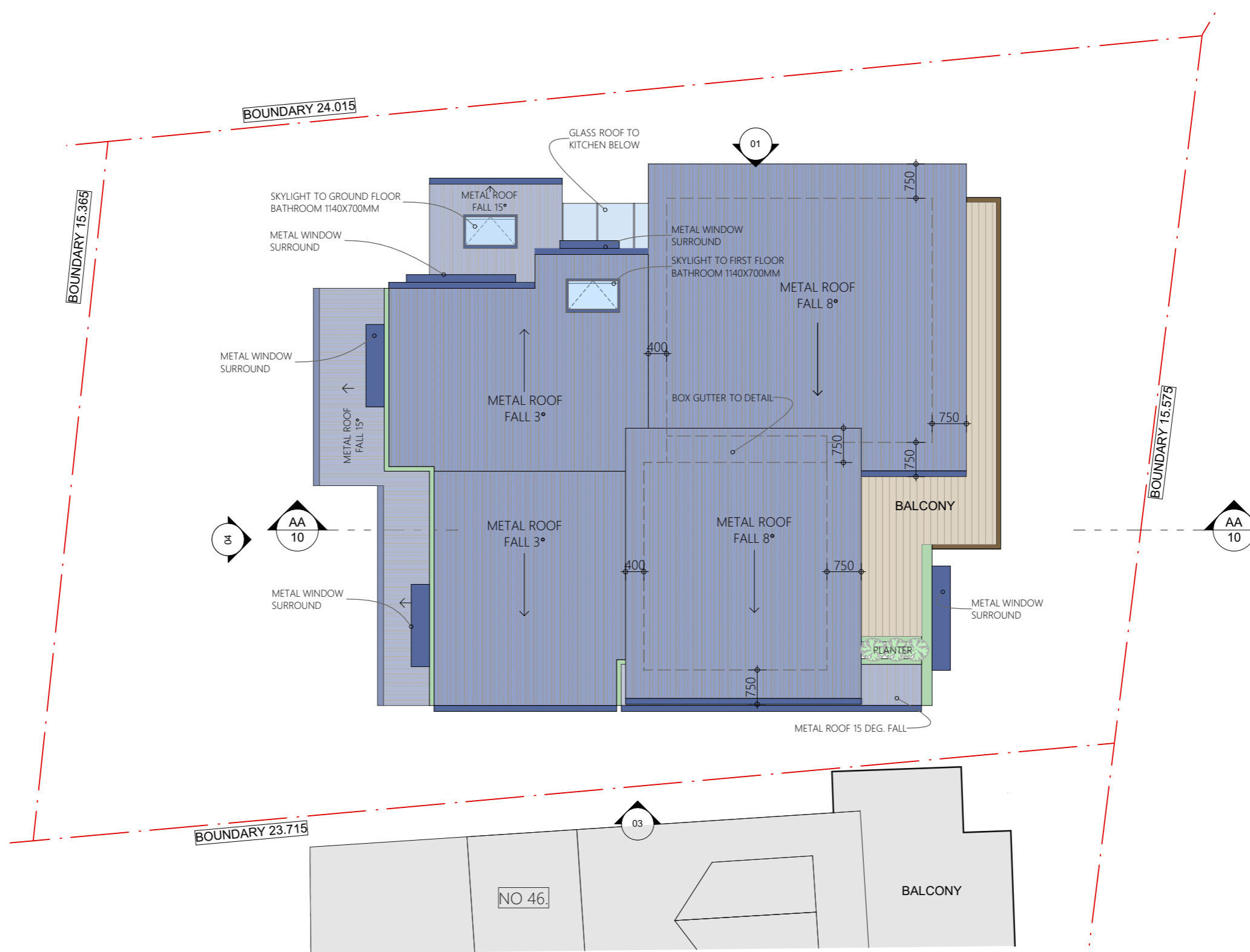
Title  
FIRST FLOOR PLAN

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
  
Folio identifier  
LOT 1 SEC - D.P. 580955

Scale	A3 1:100
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	Revision
06	A

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



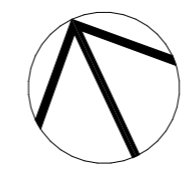
ROOF PLAN



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Rev	Date	Description



Title  
  
ROOF PLAN

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
  
Folio identifier  
LOT 1 SEC - D.P. 580955

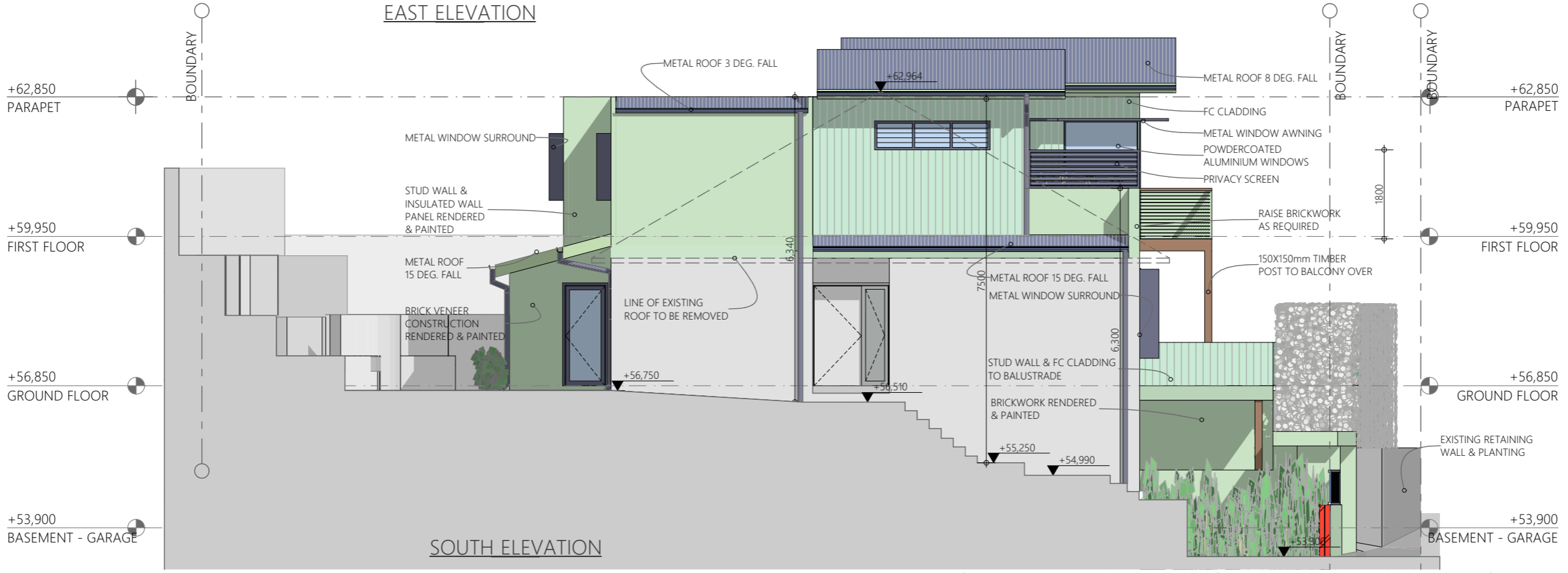
Scale	A3 1:200
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	Revision
07	

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



EAST ELEVATION



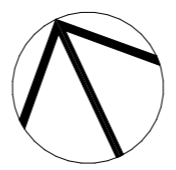
SOUTH ELEVATION



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Rev	Date	Description
A	12.12.2020	PRIVACY SCREEN BALCONY METAL SCREEN TO FRONT WALL



Title  
EAST & SOUTH ELEVATIONS

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
  
Folio identifier  
LOT 1 SEC - D.P. 580955

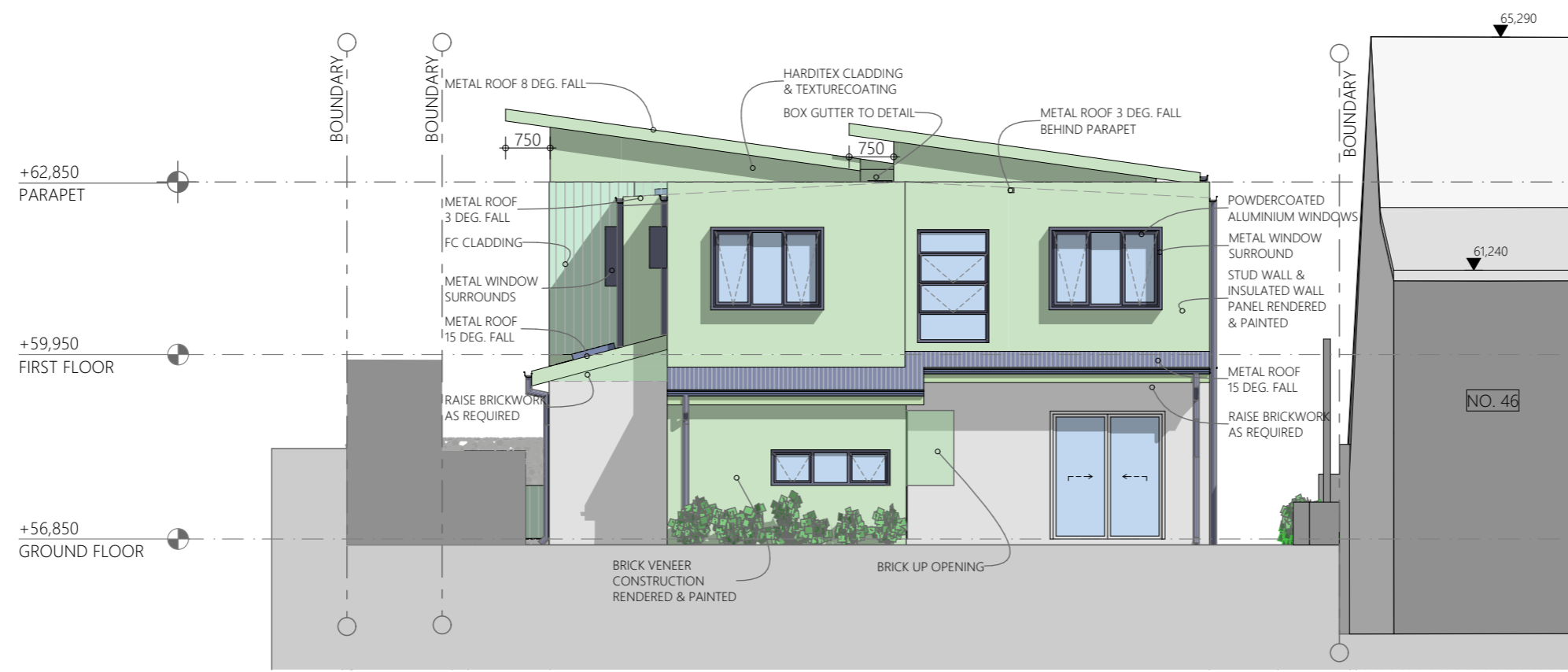
Scale	A3 1:100
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	Revision
08	A

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



NORTH ELEVATION



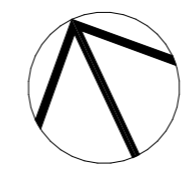
WEST ELEVATION



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Rev	Date	Description



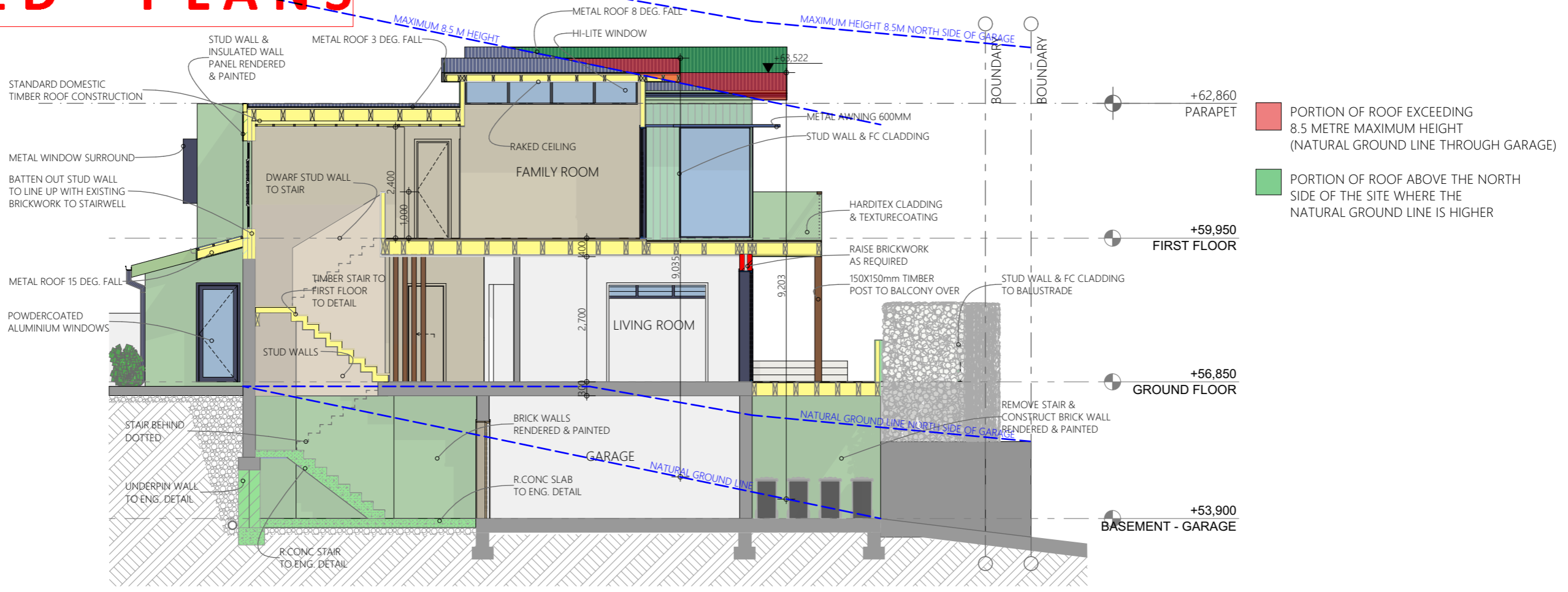
Title  
  
NORTH & WEST ELEVATIONS

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
  
Folio identifier  
LOT 1 SEC - D.P. 580955

Scale	A3 1:100
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	Revision
09	

# AMENDED PLANS

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Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



SECTION A

- BASIX REQUIREMENTS**
- 1) EXTERNAL WALLS: FRAMED & CLAD R1.3 INSULATION
  - 2) EXTERNAL WALLS: BRICK VENEER R1.16 INSULATION
  - 3) FLAT & RAKED CEILING: R2.5 INSULATION FOIL/SARKING TO ROOF MEDIUM, SOLAR ABSORPTANCE 0.475-0.7
  - 4) ALUMINIUM WINDOWS WITH SINGLE CLEAR GLAZING W1, W4, W6, W7, W9, W12, W13, W15, W16, W19, W20 & W21.
  - 5) LOW E GLAZING TO W2, W3, W5, W8, W10, W11, W14, W17 & W18
  - 6) EASTERN FIRST FLOOR FAMILY ROOM & BEDROOM 1 WINDOWS, PROJECTION  $\geq 0.23$  IE 600MM PROJECTION
  - 7) NORTHERN FIRST FLOOR BATHROOM & BEDROOM 2 WINDOW PROJECTION  $\geq 0.43$  IE. 300MM PROJECTION
  - 8) WESTERN FIRST FLOOR BEDROOM 2 AND 3 WINDOWS PROJECTION  $\geq 0.23$  IE 300MM PROJECTION
  - 9) EASTERN GROUND FLOOR WINDOW LIVING ROOM  $\geq 900$ MM EAVE
  - 10) NORTHERN GROUND FLOOR WINDOW BATHROOM  $\geq 450$ MM EAVE
  - 11) NORTHERN FIRST FLOOR BEDROOM 1 & FAMILY ROOM WINDOW  $\geq 750$ MM EAVE
  - 12) EASTERN FIRST FLOOR BEDROOM 3 WINDOW  $\geq 900$ MM EAVE
  - 13) GLASS ROOF TO KITCHEN IMPROVED ALUMINIUM FRAME, SINGLE PYROLYTIC LOW-E GLAZING
  - 14) SKYLIGHTS TO GROUND FLOOR AND FIRST FLOOR BATHROOMS TIMBER DOUBLE CLEAR/ AIR FILL.

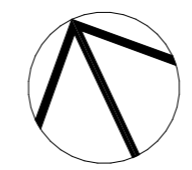


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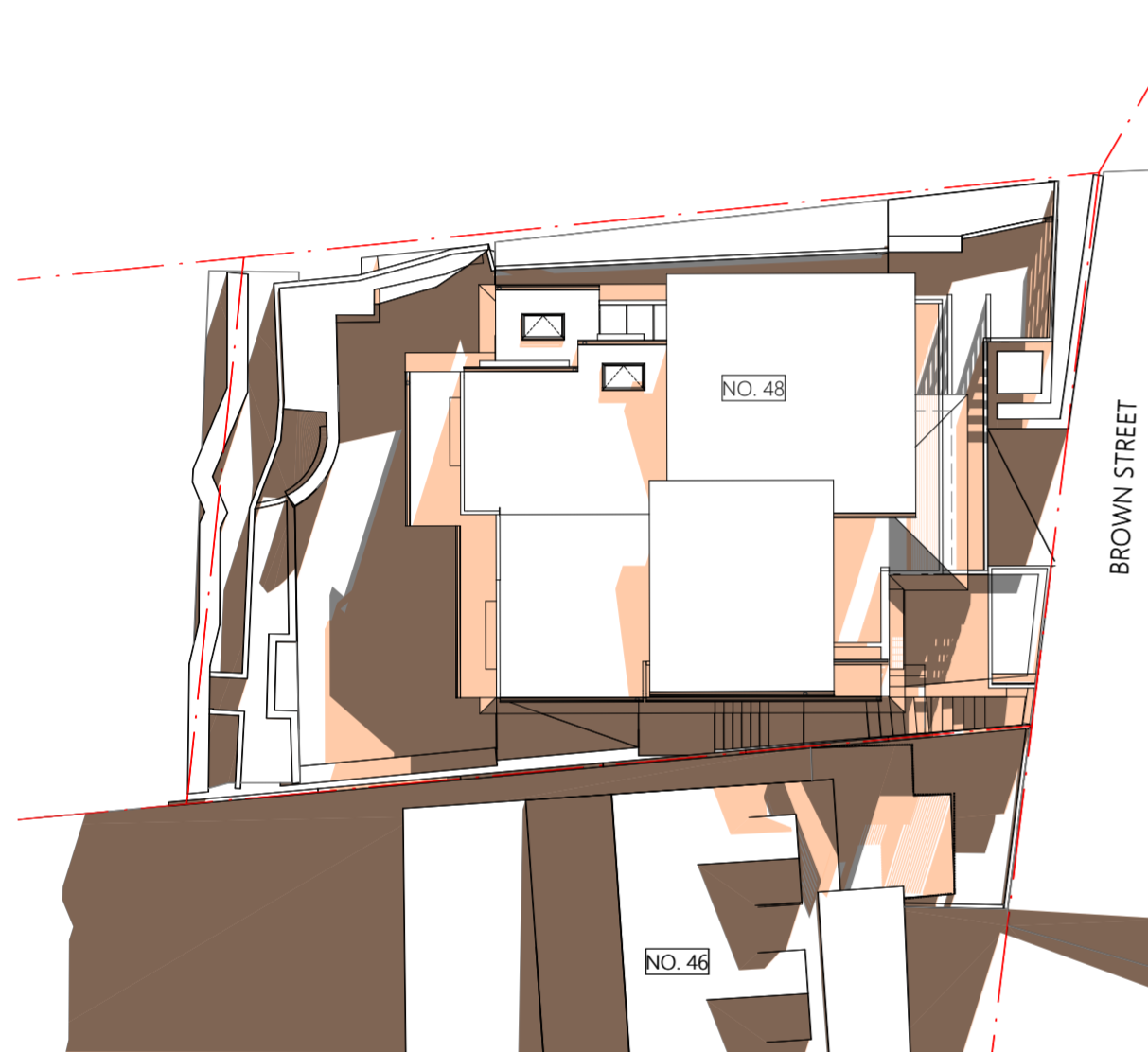
Rev	Date	Description
A	12.12.2020	ADDITIONAL DIMENSIONS & NOTES



Title	Proposed Additions & Alterations	Scale	A3 1:100
	48 BROWN STREET, BRONTE, NSW 2024	Drawn	GF
	For Colin and Nadia Brown	Checked	JE
	Folio identifier LOT 1 SEC - D.P. 580955	Project No.	143/2019
		Date	SEPTEMBER 2020
		Drawing No.	Revision
		10	A

# AMENDED PLANS

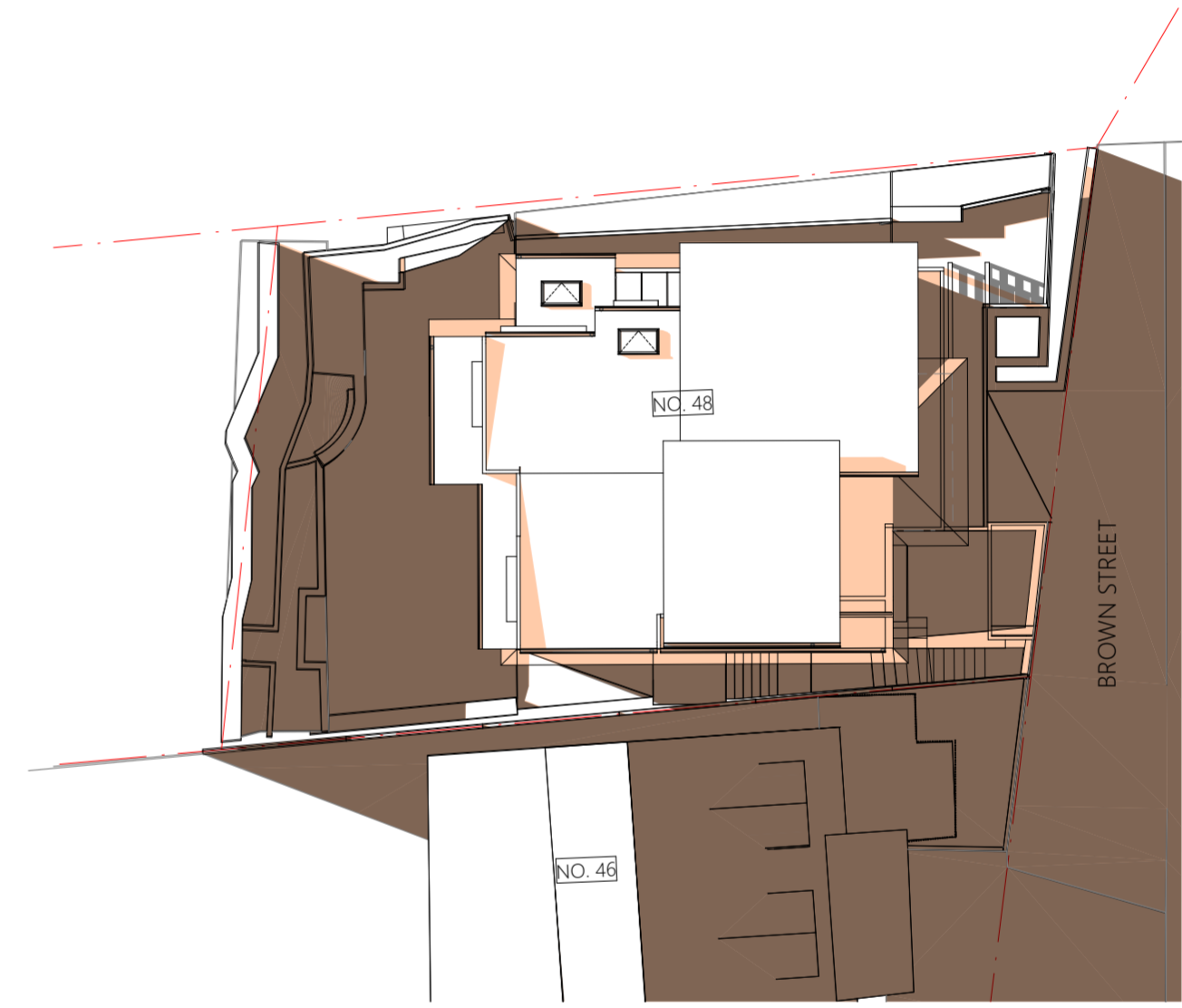
RECEIVED  
Waverley Council  
Application No: DA-366/2020  
Date Received: 14/12/2020



21 JUNE 9 AM



21 JUNE 12 PM



21 JUNE 3 PM

LEGEND:

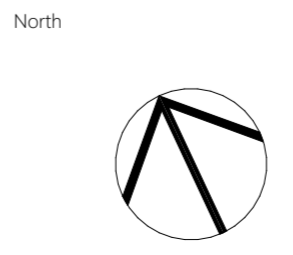
- EXISTING SHADOW
- ADDITIONAL SHADOW
- EXISTING & PROPOSED SHADOW



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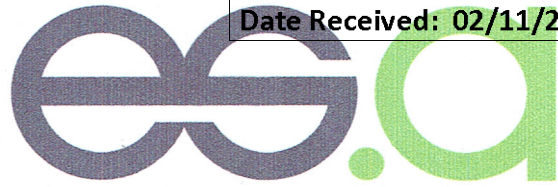
Rev	Date	Description



Title  
  
PROPOSED SHADOW  
DIAGRAM 21 JUNE

Proposed Additions & Alterations  
48 BROWN STREET, BRONTE, NSW 2024  
For  
Colin and Nadia Brown  
Folio identifier  
LOT 1 SEC - D.P. 580955

Scale	1:200 @ A2
Drawn	GF
Checked	JE
Project No.	143/2019
Date	SEPTEMBER 2020
Drawing No.	12
Revision	-



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**JACQUIE EZER**

B. Arch (Hons) UNSW

Registered Architect No. 6655

26 Allens Parade, Bondi Junction. NSW 2022

TEL: 02 9389 0805 FAX: 02 9389 0831

MOBILE: 0412 088 983

EMAIL: [info@ezer-styles.com](mailto:info@ezer-styles.com)

ABN: 97 099 373 949

**SCHEDULE OF MATERIALS AND FINISHES**

**ALTERATIONS & ADDITIONS – 48 BROWN STREET, BRONTE**

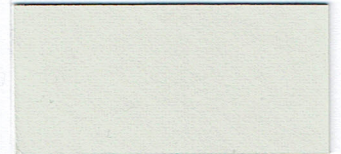
**External Cladding**  
(first floor extension  
& ground floor  
balustrade)

Hardies Scyon Axon vertically  
proportioned FC cladding  
painted Resene Fuscous Grey



**Brick walls**  
(existing smooth  
textured render)

Resene Quarter Napa



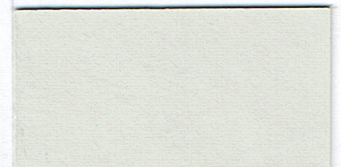
**Front planter walls &  
entry portico**

Resene Quarter Fuscous Grey



**Insulated wall panels**  
(first floor extension  
rendered)

Resene Quarter Napa



**Windows**  
(aluminium)

Dulux Duratec Appliance White



**Roof**

Colorbond Dune



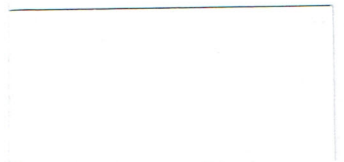
**Window surrounds  
& first floor windows**

Powdercoated aluminium  
matt black



**Window awning to first  
floor**

Powdercoated aluminium  
matt white



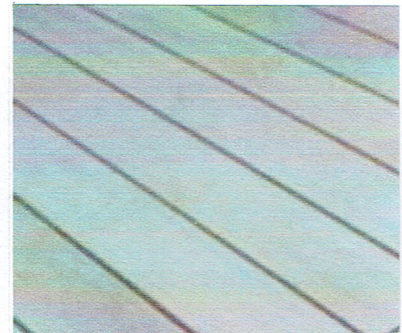
**Balcony Balustrade**  
(first floor)

Glass and Spotted gum handrail



**Balcony**  
(ground floor & first floor)

Outdure Resort decking Sea Salt



**Entry courtyard &  
Stair tiles**

Grey large format stone look  
porcelain tiles







**LOW DENSITY RESIDENTIAL DEVELOPMENT**  
 Dwelling house, Dual Occupancy, Semi-detached dwelling,  
 Attached dwelling, Secondary dwelling



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-373/2020
<b>Site address</b>	79 Oceanview Avenue, DOVER HEIGHTS NSW 2030
<b>Proposal</b>	Alterations and additions to dual occupancy development including internal reconfiguration for an additional bedroom, two balconies and extension to the deck at ground level
<b>Date of lodgement</b>	5 November 2020
<b>Owner</b>	The Owners of Strata Plan No 92728
<b>Applicant</b>	Mr D R Epstein
<b>Submissions</b>	Four unique submissions on behalf of five properties
<b>Cost of works</b>	\$274,450
<b>Issues</b>	FSR non-compliance
<b>Recommendation</b>	That the application be <b>APPROVED</b> subject to conditions

### Site Map



## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 9 January 2020 and on 14 December 2020.

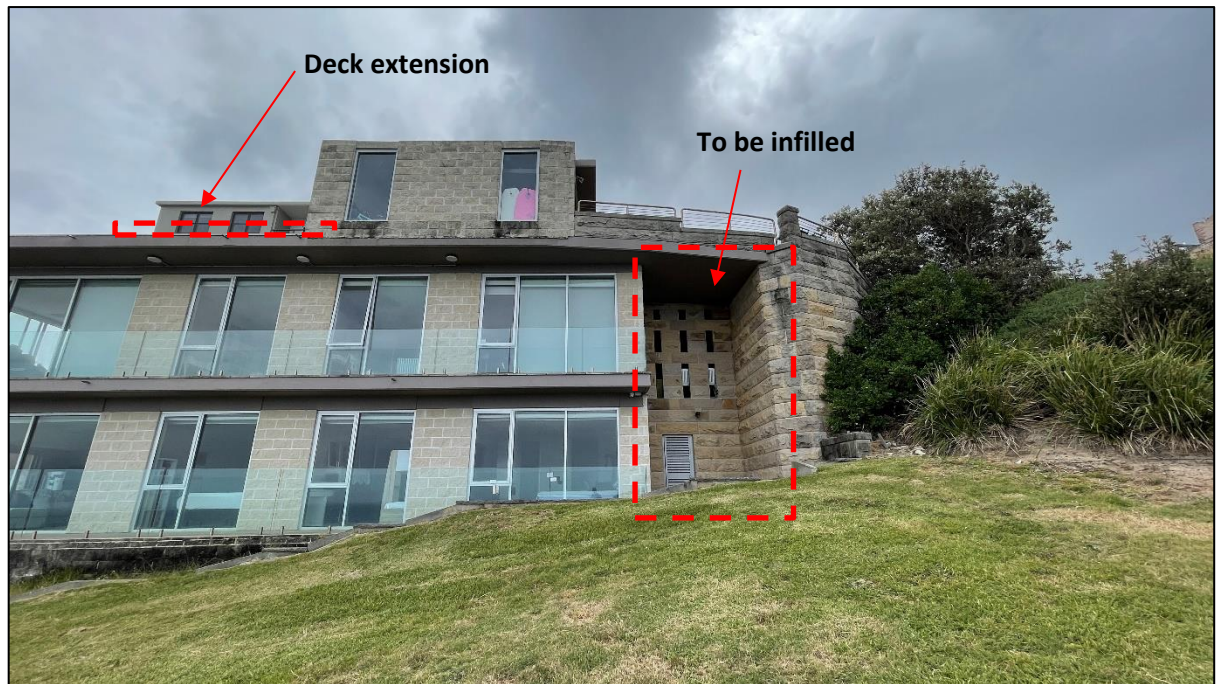
The site is identified as Lots 1 and 2 in SP 92728, known as 79 Oceanview Avenue, DOVER HEIGHTS. The site is irregular in shape with a northern street front boundary measuring 11.125m, eastern side boundary measuring 35.38m fronting the coastal reserve and ocean, southern rear boundary measuring 14.73m and western side boundary measuring 35.205m. The site has an area of 457m<sup>2</sup> and the site falls from the front of the property towards the rear.

The site is occupied by a three-storey dual occupancy development with vehicular access to two garages at the front of the site. Unit 1 is located at the basement level of the building and Unit 2 occupies the lower ground and ground floor levels of the building.

The subject site is adjoined by a residential flat building at the western side boundary and adjoins Council's coastal reserve at the eastern side boundary. The locality is characterised by a variety of residential developments including dwellings and dual occupancies.



**Figure 1:** Site viewed from Oceanview Avenue.



**Figure 2:** Site viewed from reserve looking west with location of proposed works outlined in red.

## 1.2 Relevant History

A search of Council's records reveals the following relevant development history of the site:

- L-612/2000** A development application for alterations to the existing dwelling to convert it to a dual occupancy and strata subdivision into two allotments was approved at a Council meeting held on 23 April 2002, subject to conditions. The following conditions of the consent are of note:
2. *The length of the ground floor level (upper residential unit) is to be reduced in length to 15.8m to prevent obscuring unit one balcony of the adjoining premises.*
  3. *The length of the garage be reduced by 500mm from the rear (close to the line with Unit 2/67 window frame closest to the street).*
  4. *Delete trafficable paved area/terrace at the rear of the garages at the first floor level and delete the door opening in the rear walls of the garages.*
  7. *To protect the amenity of the adjoining premises, the proposed steel framed pergola over the terrace at the rear of the ground floor level is to be deleted.*
  8. *To preserve the outlook from adjoining premises and the street, the proposed balustrades to the terraces and the elevated driveway to be an open design comprising of stainless steel post and top rail with stainless steel wire and in this regard, specific details are to be submitted for the approval of Council prior to the issue of construction certificate.*
  9. *To preserve the outlook over the adjacent reserve, no fences or gates are to be constructed across the elevated driveway.*

- 6. *To improve the outlook from adjoining premises, the width of the eaves on the eastern side of the garage roof being reduced to a maximum of 500mm.*
  - 8. *The roof finishes shall be non-reflective so as to reduce impact on adjoining properties.*
  - 9. *To reduce impact on the adjoining parkland, the proposed driveway access ramp and slab is to be shield by appropriate landscaping.*
  - 47. *The height of the garage doors are to be a minimum of 2100mm.*
- **DA-248/2003** A development application for the construction of a new dual occupancy development and swimming pool was approved on 27 August 2003, subject to conditions. This application differed from the previous application as it proposed to demolish the entire existing dwelling and construct the development as a new building. It was noted that the height, bulk and scale of the development was much the same as previously approved. The following conditions are of note:
    - 41. *The height of the garage doors are to be a minimum of 2100mm.*
    - 54. *To preserve the outlook from adjoining premises and the street, the proposed balustrades to the terraces and the elevated driveway to be an open design comprising of stainless steel post and top rail with stainless steel wire and in this regard, specific details are to be submitted for the approval of Council prior to the issue of construction certificate.*
    - 55. *To preserve the outlook over the adjacent reserve, no fences or gates are to be constructed across the elevated driveway.*
    - 56. *The roof finishes shall be non-reflective so as to reduce impact on adjoining properties.*
    - 57. *To reduce impact on the adjoining parkland, the proposed driveway access ramp and slab is to be shield by appropriate landscaping.*
  - **BC-89/2005** A building certificate was lodged to seek approval for a range of unauthorised works on the premises in relation to **DA-248/2003**. It was resolved that the building certificate could not be issued until the development application and the compliance issues had been resolved. Therefore, the building certificate was deferred.
  - **DA-248/2003/A** A modification application was lodged, seeking consent for alterations and additions including new retaining wall and concrete roof changes. The modification application was approved on 30 May 2005, subject to the following:
    - 1. *Compliance in all respects with Plan No. A 01 to A 04, tables and documentation prepared by Robert Yuen and received by Council on 10 December 2004, except where amended by the following conditions of consent.*
    - 2. *No approval is expressed or implied to the proposed 200mm increase in height of the garage roof level.*
    - 3. *No approval is expressed or implied for the provision of a new 1.8m masonry privacy screen to the western elevation of the ground floor deck area.*

The modification application was appealed in the Land and Environment Court and the application was dismissed as follows:

- *The modification to increase the height of the garages by 200 and 350mm is refused consent.*
- *The Court approves a planter box and glass screening in place of the concrete wall currently erected on the edge of the balcony.*

Conditions 58-60 are also noted on the consent:

- 58. *The blade wall on the western elevation of deck No. 1 is to be deleted and replaced with a planter box having a height of 1100mm and a width of 600mm along the full western elevation of deck No. 1. This planter box is to incorporate screen planting which is to be maintained so as not to exceed a height of 1.8m as measured from the floor of the deck.*
- 59. *No approval is expressed or implied for any change in height of the garages.*
- 60. *The deck referred to as deck 5 on the approved plans is to be accessed only for cleaning and removal of debris and is not to be used for any other purpose.*

- **DA-248/2003/B**

A modification application was lodged for the following:

- *Vary Condition No. 59 of the development consent to alter the height of the garage roof and provide a R C slab roof in lieu of a metal deck roof.*
- *Vary Condition No. 58 to allow for the construction of a masonry screen wall 1.8m in height*

The application was approved on 2 May 2007, and the amended conditions read as follows:

- 58. *The blade wall on the western elevation of deck No. 1 is to be is to be reduced to a height of 1100mm, as measured from the floor of the deck. A series of planter boxes are to be provided, with a minimum width of 600mm and providing a minimum soil depth of 600mm, shall be installed along the full length of the subject wall, and is to incorporate screen planting. This proposed screen planting, is to be maintained and is not to exceed a height of 1.8m.*
- 59. *The roof and walls of both garages are to be a maximum height of RL 37.90m.*

- **DA-248/2003/C**

A modification application to include privacy screen to balcony and increase garage height was withdrawn by the Applicant on 27 October 2011.

- **DA-248/2003/D**

A modification application to increase the height of side privacy wall and height of garage roof slab was refused on 10 August 2012 for the following reasons:

1. *With regard to Section 79C(1)(a)(b),(c) and (d) the proposal is considered to negatively impact upon the natural and built environment and is not a suitable form of development for this location.*

2. *The proposal does not satisfy the following provisions of the Waverley Local Environmental Plan, 1996:*
    - a) *Clause 3 – Specific Aims (7[f]);*
    - b) *Clause 10 – Zone Objectives (b)*
  3. *The proposal is contradictory to the Waverley Development Control Plan 2010, with regards to the following provisions:*
    - a) *Part D1, Section 2.3: Objectives Specific to the Dover Heights Residential Character Study Area*
      - i) *1.1 Minimise the impact of new development on views and vistas from the public and private domains.*
      - ii) *1.2 Reinforce public views and vistas in street corridors.*
  4. *The proposal will adversely impact on views from adjoining properties, in particular the interface of ocean with sky.*
  5. *Inadequate Certificate of Surveys have been submitted to properly assess the heights of the proposed works.*
  6. *The proposal does not satisfactorily address issues raised previously in two Council determinations and a Land and Environment Appeal (No. 11066 of 2005).*
  7. *The proposal is not in the public interest.*
- **DA-248/2003/E** A modification application to alter the finished roof level of the dual occupancy was approved on 13 February 2014, subject to the following:  
  
Modified condition 59:  
  
*59. The overall RL for the garage roof, including parapet is not to exceed RL 38.125 AHD with the slab not exceeding RL 38.085AHD. There are to be no further structures, antennae or communication devices of the like erected on top of the garage roof.*  
  
New condition 61  
  
*61. The submission of a structural engineers certificate for the new roof slab.*
  - **DA-502/2015** A development application to provide a glass balustrade to the external perimeter of the existing ground floor level roof to dual occupancy dwelling was refused on 4 February 2016 for the following reasons:  
  
*1. The proposal does not satisfy section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:*
    - a. *Part C1 – Dwelling House and Dual Occupancy Development;*
      - i. *Clause 1.7 Visual and Acoustic Privacy, specifically objective (a) to (c) relating minimising the impact of roof terraces, overlooking and noise generation on adjoining properties; and control (d) (i) to (v) as the works essentially create a roof terrace which exceeds 15sqm which will give rise to*

*unreasonable amenity impacts from the potential use as an entertaining area / extension of private open space.*

2. *The proposed development does not satisfy section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal would adversely impact upon the amenity of adjoining residential development.*
3. *The proposed development does not satisfy section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as the site is considered unsuitable for the proposed development given the potential adverse amenity impacts from the proximity to other residential development.*

It is noted that this deck was to occupy the entirety of the roof slab of the lower ground floor level below and was to be accessed from the garages.

- **DA-379/2019**

A development application was lodged, seeking consent for alterations and additions to unit 2 of an attached dual occupancy. The works included the following on the lower ground floor and ground floor level of the building:

- Construction of a new master bedroom and ensuite with a balcony to the east within an existing void towards the front boundary of the site;
- Installation of a new lift;
- Construction of a pantry;
- Construction of a pergola over the rear terrace area with metal batten screens;
- Construction of an outdoor BBQ under the proposed pergola on the rear terrace.
- Demolition of the rear garage wall to construct a new entrance, storage area, plant room, lift and deck.

The application was approved by the Waverley Local Planning Panel (WLPP) on 22 April 2020, subject to the following special conditions:

**2. REAR TERRACE AT LOWER GROUND LEVEL**

*The rear pergola at the lower floor plan can extend southwards from the rear of the building by no more than 3 metres.*

**3. GROUND FLOOR LEVEL GREEN ROOF**

*The green roof at the ground floor level is to be non-trafficable to maintain amenity for surrounding properties.*

The above conditions were satisfied on 16 June 2020.

A modification application (**DA-379/2019/A**) to delete the height restrictions on planting upon the roof in condition 16(a) as a result of a minor error as well as amend the landscape plans to satisfy condition 4 of the consent was approved on 30 July 2020.

### 1.3 Proposal

The application seeks consent for alterations and additions to the existing dual occupancy development, including:

#### **Unit 1**

##### Basement Floor Plan

- Demolition of internal and external walls of the existing plant room;
- Conversion of the existing plant room to a master bedroom with an ensuite and balcony; and.
- Construction of a patio adjacent to the master bedroom to face the reserve and ocean.

#### **Unit 2**

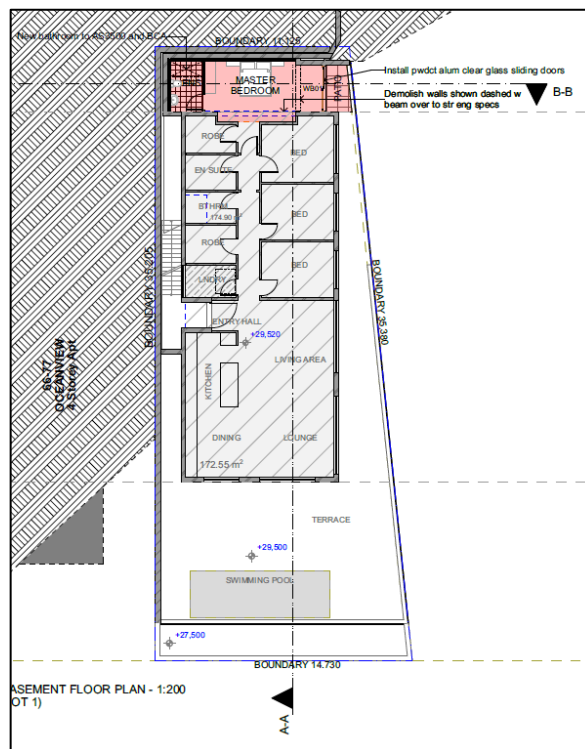
##### Lower Ground Floor Plan

- Minor extension of the approved master bedroom into the existing void space; and
- Construction of a balcony off the approved master bedroom to align with the existing balcony at the ground floor level, as well as the proposed patio below.

##### Ground Floor Plan

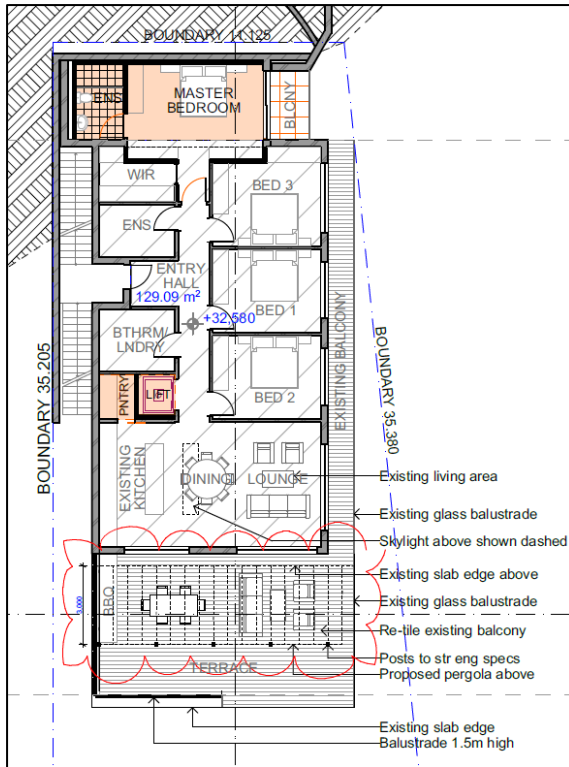
- Extension of the approved deck at the ground floor level over the approved green roof; and
- Installation of glazed balustrades.

A comparison of the approved plans under **DA-379/2019** as amended and the plans lodged with the subject application are provided below.

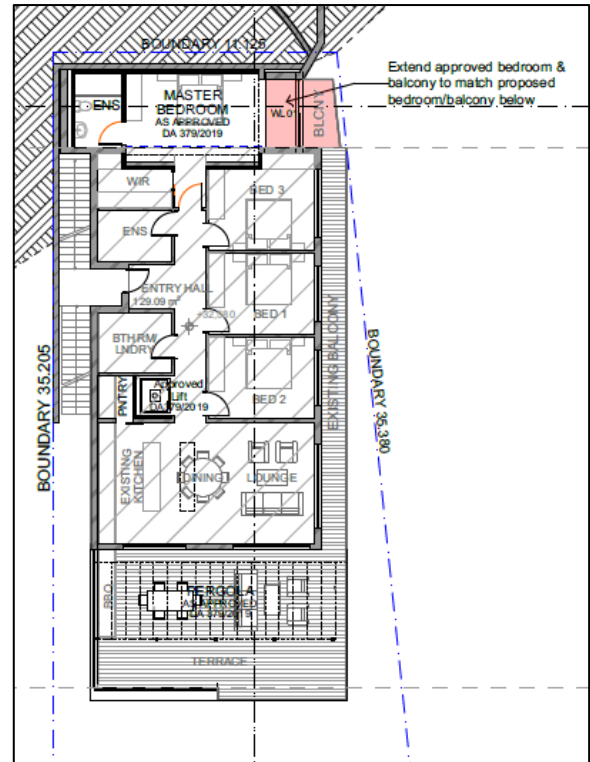


**Figure 3:** Proposed basement plan (Unit 1). The previous development application involved no changes to Unit 1 at the basement level.

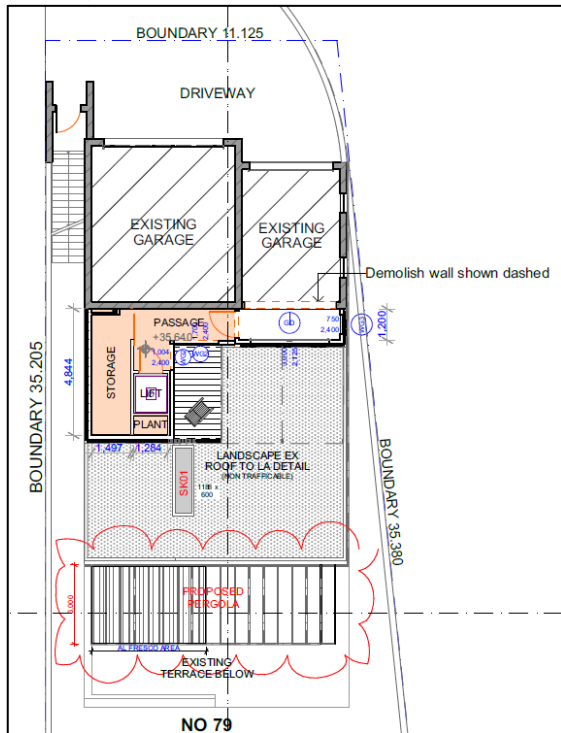




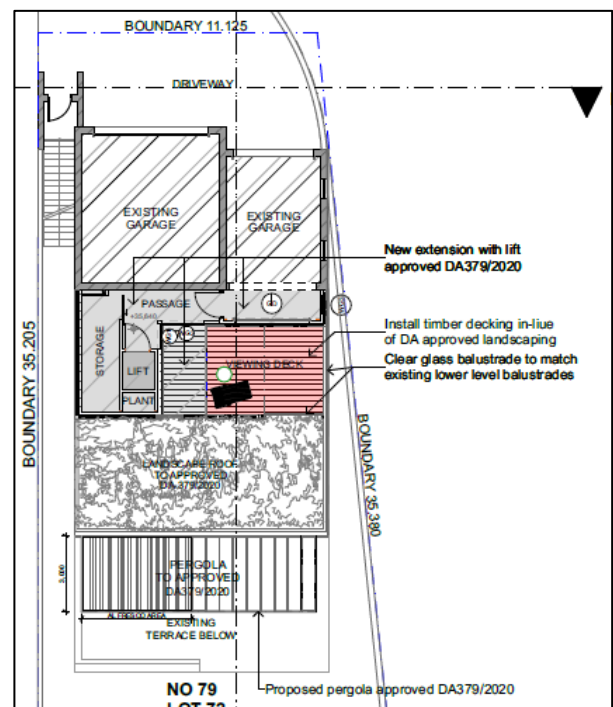
**Figure 4:** Approved lower ground floor plan (Unit 2).



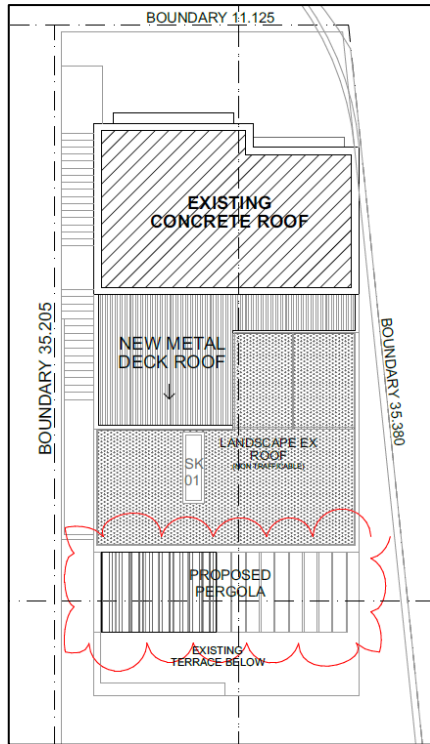
**Figure 5:** Proposed lower ground floor plan (Unit 2).



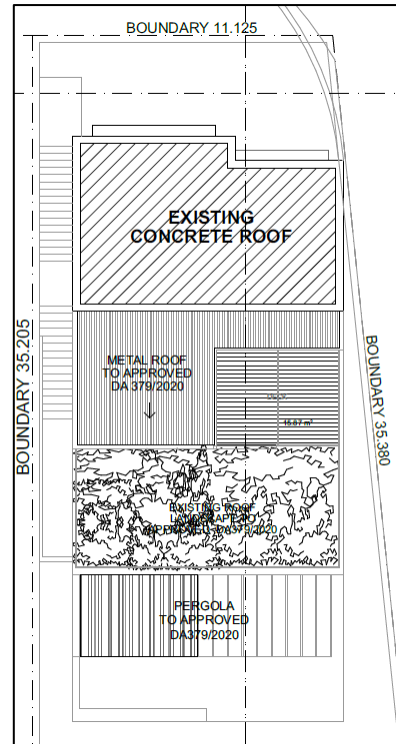
**Figure 6:** Approved ground floor plan (Unit 2).



**Figure 7:** Proposed ground floor plan (Unit 2).



**Figure 8:** Approved roof plan.



**Figure 9:** Proposed roof plan. It is noted that the green roof has already been approved. The applicant has confirmed no roof is proposed above the deck at the ground floor level and the approved beam is retained.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are incorporated into the Construction Certificate drawings and implemented.

#### 2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

### 2.1.3 SEPP (Coastal Management) 2018

The SEPP applies to the subject site as it is wholly located within the Coastal environment area (Clause 13) and a Coastal use area (Clause 14) according to the SEPP.

Clause 13 states that development within the coastal environment area, must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- (b) coastal environmental values and natural coastal processes,
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (f) Aboriginal cultural heritage, practices and places,
- (g) the use of the surf zone.

Clause 14 states that development consent must not be granted for development on land within the coastal use area unless the consent authority;

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
  - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - (iv) Aboriginal cultural heritage, practices and places,
  - (v) cultural and built environment heritage, and
- (b) is satisfied that:
  - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

**Clause 15 states that development in coastal zone generally is not to increase risk of coastal hazards.**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

### Planning Comment

The proposed works are largely confined to the existing building footprint on the site and are unlikely to have any adverse impacts upon the coastal zone.

#### **2.1.4 SEPP (Vegetation in Non-Rural Areas) 2017**

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP) regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016.

In accordance with Part 3 of the Vegetation SEPP, a permit is required from Council to clear any vegetation in an area identified:

- as 'Biodiversity' on the Terrestrial Biodiversity Map in Waverley Local Environmental Plan 2012 (Waverley LEP 2012); and/or
- as 'Biodiversity Habitat Corridor' in Waverley Development Control Plan 2012 (Waverley DCP 2012).

### Planning Comment

The proposed works are largely confined to the existing building footprint on the site and are unlikely to impact upon existing biodiversity. No vegetation is proposed for removal.

#### **2.1.5 Waverley LEP 2012**

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Zone	Yes	The proposal involves alterations and additions to an existing dual occupancy, which is permitted with consent in the R2: Low Density Residential Zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"><li>• 8.5m</li></ul>	Yes	The proposed works are to be sited below the maximum building height limit of 8.5m applicable to the site.
4.4 Floor space ratio (FSR); and 4.4A Exceptions FSR <ul style="list-style-type: none"><li>• 0.6:1</li><li>• GFA: 275.25m<sup>2</sup></li></ul>	No	Approved GFA: 326.5m <sup>2</sup> Approved FSR: 0.71:1 Approved Variation: 18.61% (51.25m <sup>2</sup> ) Proposed GFA: 355.03m <sup>2</sup> (additional 28.53m <sup>2</sup> )

Provision	Compliance	Comment
<ul style="list-style-type: none"> <li>SA: 457m<sup>2</sup></li> </ul>		Proposed FSR: 0.777:1 Proposed Variation: 28.98% (79.78m <sup>2</sup> )
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.5 Development within the Coastal Zone	Yes	The proposal is located within the existing building footprint.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### **Clause 4.6 - Exceptions to Development Standards - FSR**

The application seeks to vary the FSR development standard in Clause 4.4A.

The site is subject to a maximum FSR control of 0.6:1. The proposed development has an FSR of 0.777:1, exceeding the standard by 79.78m<sup>2</sup> equating to a 28.98% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the Applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposed alterations maintain the same height as the approved development. The additional bedroom is to be constructed below the driveway and within the footprint and height of the existing building. The bedroom will not be visible from any surrounding properties or from the street. The proposal remains compliant in relation to the height control of 8.5 metres that applies to the site under the LEP. Accordingly, the proposed increase to FSR will not increase the height of the building.*

- (ii) *The proposal is consistent with other recent developments in the area and adjacent to the public reserve such as 58 Oceanview Avenue and 8 Ray Street with floor space ratios of between 0.75:1 and 0.8:1.*
  - (iii) *The proposal will add 28.53m<sup>2</sup> comprised entirely of existing space under the driveway and garage. The additional floorspace will not add any bulk to the development. The proposed additions will not be visible from Oceanview Avenue or from any of the surrounding properties. The additional bedroom on the basement level and minor addition to the approved bedroom on the lower ground floor are below the garage and driveway, below street level. The proposed open style screens to provide privacy to the rear terrace are substantially setback from the park and are consistent with the bulk and scale of the building and surrounding development. The new bedroom will not add any bulk or scale the building.*
  - (iv) *The proposal to vary the FSR is minor in particular when balanced against the impacts of the adjacent RFB on the subject property. The proposed works will not be visible from any surrounding properties and hence will not impact on the amenity of neighbouring properties or the locality. No properties in the locality will be adversely impacted by the proposal.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The non-compliance with the FSR will not result in any increase in the height or external footprint of the existing building, the height remaining compliant with the height standard;*
  - (ii) *The proposed additions will not be visible from Oceanview Avenue or from any of the neighboring properties;*
  - (iii) *The proposed additions will not adversely impact on the amenity of any neighbouring properties;*
  - (iv) *The proposal will not impact upon Council's public amenity, service resources or assets; and*
  - (v) *The proposal will not place any undue increased demand on public infrastructure, amenities or services.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the development standard and objectives of the zone as outlined below:

*R2: Low Density Residential Zone Objectives*

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

**Comment:** The proposal results in an additional 28.53m<sup>2</sup> of GFA for the construction of a master bedroom and ensuite to Unit 1 at the basement level and a minor extension of the approved master bedroom to Unit 2 above, located at the lower ground floor level of the building. This infills an existing void space that is currently utilised as a plant room and no additional excavation works are required. The proposal continues to provide for the needs of the development within the low density residential environment. The proposal maintains the two separate units of an attached dual occupancy development and therefore the proposal is not considered to adversely impact upon other land uses or facilities in the locality. The proposal is considered to be suitable within the low density residential zone.

*Clause 4.4 Floor Space Ratio Objectives*

*(1) The objectives of this clause are as follows—*

- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

**Comment:** The proposed additional floor space is contained within an existing void at the basement level that is utilised as an existing plant room. The works at the basement level will largely replicate the approved works under **DA-379/2019** for the level above. This does not contribute to the bulk and scale

of the building as viewed from the primary streetscape; however, the works are visible from Council's coastal reserve to the east (Eastern Reserve). The infill of this void space is contained within the existing building footprint and will not unduly impose upon the building as viewed from Eastern Reserve and is considered to be acceptable. Furthermore, only an additional 3.96m<sup>2</sup> of GFA is proposed at the lower ground floor level to extend the approved master bedroom that will ensure the development aligns with the existing building line to the eastern side setback. Therefore, despite the further non-compliance of the FSR development standard, the proposal is considered to be consistent with the objectives of the FSR development standard.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out as detailed above.

Conclusion

For the reasons provided above the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the FSR development standard and the R2: Low Density Residential Zone.

**2.1.6 Waverley Development Control Plan 2012 (Amendment 9)**

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. A condition of consent is recommended regarding ongoing waste on site.
2. Ecologically sustainable Development	Yes	The proposal incorporates passive design.
3. Landscaping and Biodiversity	Yes	The site is located in a Habitat Corridor; however, the proposed works are largely contained within the existing building footprint and would not result in the loss of any existing vegetation on the site.  The area of the approved green roof under <b>DA-379/2019</b> is to be decreased with the proposal to extend the approved deck at the ground floor level of the building. This is considered to be acceptable as a large space of the green roof is to be retained (approximately 43m <sup>2</sup> ).



Development Control	Compliance	Comment
4. Coastal risk management	Acceptable, condition recommended	The application proposes alterations and additions to the existing building and is on land affected by 'Coastal Inundation' or 'Geotechnical Risk'. Given that the works are largely contained within the existing building footprint, a Coastal Risk Assessment or Geotechnical Risk Assessment was not required to be submitted. Standard conditions are recommended to be imposed for a geotechnical assessment to be conducted prior to the issue of a Construction Certificate.
6. Stormwater	Acceptable, condition recommended	<i>See comments in section 3.1 of this report.</i>
11. Design Excellence	Yes	The proposal infill of the void is considered to be acceptable.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

The proposal is defined as a “Dual Occupancy” in the LEP.

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>• Appropriate scale</li> <li>• Does not detract from amenity of other dwellings or view corridors</li> <li>• ESD has been considered</li> <li>• Alterations &amp; additions are sympathetic in bulk &amp; scale to the character of the area</li> <li>• High design standard</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the DCP as the proposed infill of the void space has been designed to complement the materials and style of the existing dwelling as well as the approved works under <b>DA-379/2019</b> .
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>• Maximum wall height of 7.5m</li> </ul>	Yes	The proposed works do not alter the existing external wall height of the building that is less than 7.5m and is therefore satisfactory in this regard.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>• Predominant front building line</li> </ul>	Yes	The proposal maintains the existing and approved front and rear building lines of the building across all floors of the development.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Predominant rear building line at each floor level</li> </ul>		
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> <li>Minimum of 0.9m</li> </ul>	<p>Merit Assessment</p>	<p>The proposal seeks to infill the existing void space that does not maintain a 900mm side setback to the eastern boundary. This is considered to be acceptable on merit for the following reasons:</p> <ul style="list-style-type: none"> <li>The existing building has a nil setback to the eastern side boundary due to the presence of balconies on the eastern elevation of the building. The proposed works would appropriately align with the existing built form on the site and is not anticipated to result in any adverse impacts.</li> <li>The site adjoins Eastern Reserve and would not result in any adverse bulk and scale impacts when viewed from this reserve.</li> <li>The proposed works are not visible from the primary streetscape (Oceanview Avenue) and is acceptable.</li> <li>The proposal is largely contained within the existing building footprint and will have no adverse impacts with regards to amenity, overshadowing or privacy.</li> </ul> <p>Therefore, the proposed works are acceptable on merit in this regard.</p>
<p><b>2.3 Streetscape and visual impact</b></p>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> </ul>	<p>Yes</p>	<p>The proposed works will not be visible from the primary streetscape (Oceanview Avenue) and are considered to be acceptable.</p>
<p><b>2.5 Visual and acoustic privacy</b></p>		
<ul style="list-style-type: none"> <li>Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design.</li> <li>Maximum size of balconies:</li> </ul>	<p>Merit Assessment</p>	<p><i>See discussion below.</i></p>

Development Control	Compliance	Comment
<p><i>10m<sup>2</sup> in area</i></p> <p><i>1.5m deep</i></p> <ul style="list-style-type: none"> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>		
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June</li> </ul>	Yes	The proposed works are contained within the existing building footprint and will not result in any adverse overshadowing impacts.
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes Conditions recommended	<i>See discussion below.</i>
<b>2.14 Dual Frontage Development</b>		
<p>2.14.1 - General Controls</p> <ul style="list-style-type: none"> <li>Primary and secondary frontage to be defined</li> <li>Appropriate forms to be provided to each street</li> </ul>	Yes	The site has a primary frontage to Oceanview Avenue and a secondary frontage to the landscape reserve (Eastern Reserve) adjacent to the ocean. The proposed works would not be visible from the primary streetscape and are not anticipated to unduly impose upon views present from the landscaped reserve.
<b>2.15 Dual Occupancy Development</b>		
	Yes	The proposed works to the existing dual occupancy do not add adverse bulk to the building or result in any unreasonable impacts to surrounding properties.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

## **Visual & Acoustic Privacy**

The proposal is considered to be acceptable in maintaining reasonable visual and acoustic privacy for surrounding properties as discussed below.

### *Extension of Deck at Ground Floor Level*

The application seeks to extend the approved deck under **DA-379/2019** at the ground floor (third level) of the building over the approved landscape area to the east. The approved deck has an area of approximately 6.2m<sup>2</sup> and a depth of 1.75m and is proposed to be extended to have a total area of approximately 23m<sup>2</sup>. While this exceeds Council's requirements for elevated decks, the proposal is considered to be acceptable, subject to conditions, as discussed below:

- The deck extension is proposed to infill the area to the east of the approved storage and lift approved under **DA-379/2019** and would not extend further to the south that is an approved green roof.
- Views from the deck are likely to be focussed towards the east, overlooking the Pacific Ocean, rather than to the west that has views of the balconies of the units at the adjoining residential flat building at 67 Oceanview Avenue. Views from the deck towards the adjoining residential flat building to the west will also be partially obscured due to the presence of the approved lift and storage area at the rear of the existing garages. Furthermore, given that the private open space of the units of the adjoining residential flat building are sited higher than the subject site, it is considered that any overlooking would be from this property, rather than from the subject site, looking backwards.
- The proposal maintains the development as a dual occupancy containing two units and therefore, residential density is not increased on the site. It is considered that any noise generated from the use of this deck would be of an acceptable level for the low density residential environment.
- The deck extension results in no adverse amenity impacts with regards to view loss, subject to a recommended condition to delete any proposed solid extension to the south of the deck and to replace it with a clear glass balustrade, as discussed below.

Therefore, the proposed deck, is considered to be acceptable on merit, subject to recommended conditions.

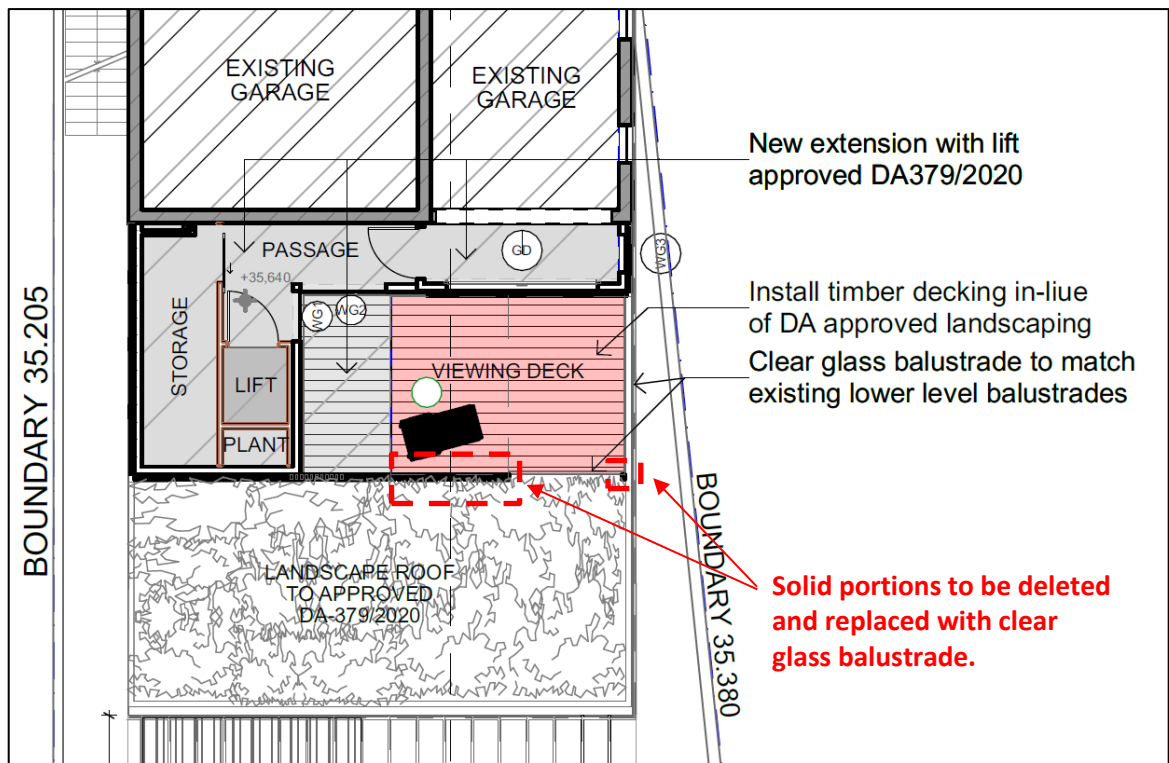
### *Proposed Patio at Basement Level & Balcony at Lower Ground Floor Level*

The proposed patio is to be located off the proposed master bedroom at the basement level and will align with the existing terrace that has views to the Pacific Ocean. Likewise, the proposed balcony at the lower ground floor level is to be located off the approved master bedroom and will align with the existing balcony that has views to the Pacific Ocean. Both the proposed patio and balcony will not be visible from surrounding properties and would also not enable any overlooking of neighbouring properties. The proposed patio and balcony are therefore not anticipated to result in any adverse visual or acoustic privacy impacts and are acceptable in this regard.

## **View Loss**

The proposed extension of the deck at the ground floor level would have no adverse impacts upon views present to the ocean and surrounds from occupants of the adjoining residential flat building at 67 Oceanview Avenue, subject to the following recommended conditions:

- A condition of consent is recommended to be imposed to delete any proposed solid extension to the south of the deck and to replace it with a clear glass balustrade. This is demonstrated below:



**Figure 10:** Extract of ground floor plan demonstrating solid portion to be deleted.

- A condition of consent is also recommended to be imposed to ensure that no shade structure such as a shade sail or the like is erected over the deck through ongoing use due to the approved beam above the deck (see **Figure 9** in this report for detail).

Therefore, the proposal is considered to maintain views, subject to the recommendations above.

## 2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3 Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

## 2.4 Any Submissions

The application was notified for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Four unique submissions were received on behalf of five properties. The issues raised in the submissions are summarised and discussed below.

**Table 3: Summary of property addresses that lodged a submission**

Property
Sydney Town Planners on behalf of SP 3331 at 67-77 Oceanview Avenue, DOVER HEIGHTS
1/67-77 Oceanview Avenue, DOVER HEIGHTS
2/67-77 Oceanview Avenue, DOVER HEIGHTS (2 unique submissions)
3/67-77 Oceanview Avenue, DOVER HEIGHTS (same as that submitted on behalf of SP 3331 but name and letterhead of original author removed)
16/67-77 Oceanview Avenue, DOVER HEIGHTS (same as that submitted on behalf of SP 3331 but name and letterhead of original author removed)

- **FSR & GFA**

**Issue: Further exceedance of FSR.**

**Issue: “It is abundantly clear that the subject DA is an overdevelopment of the site; an unbiased person would say that the previous DA, which required a significant variation to the FSR standard (more on this in Part 3 below), was already an overdevelopment. So in reality the applicant/developer is “doubling-down” and seeking approval for an overdevelopment of an overdevelopment.”**

**Issue: “Even if a development is within the height limit, that is not a reason to exceed other building envelope controls i.e. number of storeys, setback, FSR etc. If it were, the FSR control would be unnecessary. This principle was established by Commissioner Annelise Tuor in PDE Investments No 8 Pty Ltd v Manly Council [2004] NSWLEC 355.”**

**Response:** This has been discussed in section 2.1.5 of this report.

- **View Loss**

**Issue: “The outrageous built form proposed by the DA (both historically and currently) will significantly and unreasonably impact on existing views enjoyed by the adjoining eastern neighbours. No assessment on view sharing/view loss have ever been provided by the applicant (both historically and currently).**

**Issue: A View Loss Assessment should be submitted for assessment.**

**Response:** The scope of the proposed works under this subject development application does not warrant a detailed view loss assessment from the adjoining residential flat building at 67 Oceanview Avenue, as it is limited to the infill of plant and a void and the extension of a deck. As stated above, a condition of consent is recommended to be imposed to ensure no roof structure such as a shade sail or the like is to be erected over the deck at the ground floor level to maintain views. Previously approved development on the site is irrelevant in the assessment of views regarding the subject application however, it is noted that a detailed view loss assessment was conducted during the assessment of the previously approved development under **DA-379/2019** that was approved by the WLPP.

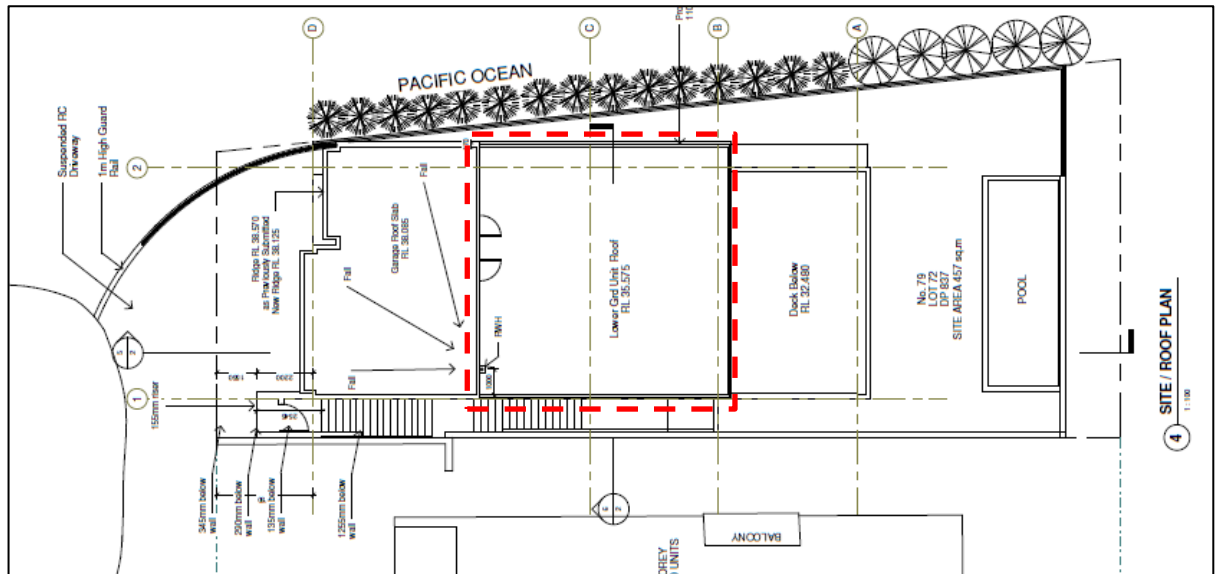
- **Roof Terrace**

**Issue: “A similar large external deck was previously REFUSED under DA-502/2015.”**

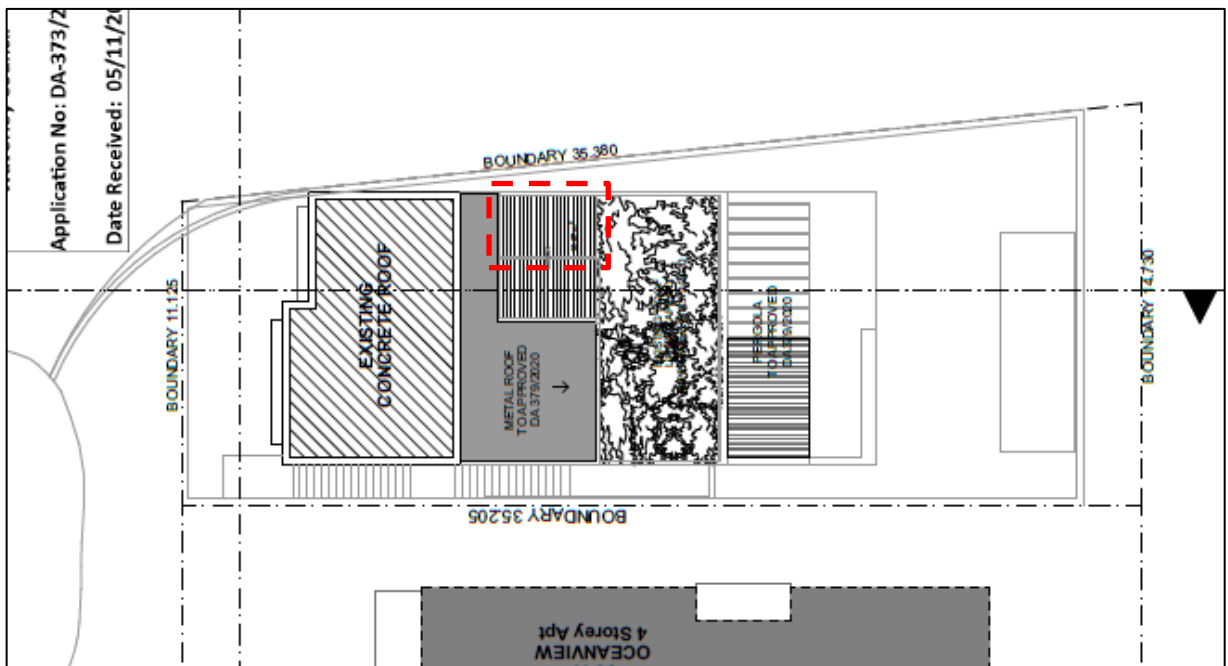
**Issue: “Nothing has changed since DA-502/2015 to warrant a different outcome i.e. Council should uphold the determination of DA-502/2015 and also REFUSE the current proposal (DA-373/2020) to**

*protect neighbours from significant and unreasonable amenity (loss of visual /acoustic privacy, loss of views) impacts.”*

**Response:** As detailed in the site history in section 1.2 of this report, the proposed deck at the ground floor level under **DA-502/2015** was to occupy the entirety of the roof slab of the lower ground floor level below and was to be accessed from the garages. A screenshot of this plan that was refused is provided below in **Figure 11**. Therefore, the circumstances of the now proposed extension of the approved deck under **DA-379/2019** cannot be compared to the refusal of the deck proposed under **DA-502/2015** as the site conditions have since changed and the deck is not of the same scale as previously proposed. A merit assessment on the proposed deck extension has been undertaken in this report and is considered to be suitable in the site context, subject to recommended conditions.



**Figure 11:** Excerpt of the refused ground floor level deck under **DA-502/2015** outlined in red.



**Figure 12:** Excerpt of the proposed works to the ground floor level deck under the subject application outlined in red.

**Issue: Amenity impacts to neighbouring properties assessed against the planning principle Davies v Penrith City Council [2013] NSWLEC 1141.**

**Issue: "Increase [in] the amount of rooftop terrace area and consequently erode ocean views, and impact on visual/acoustic privacy of neighbours/Units at Strata Plan 3331."**

**Issue: Alteration to this terrace area would obstruct sunlight, views and aspect of 1/67-77 Oceanview Avenue.**

**Response:** As discussed, the proposed works under the subject application are reasonable, do not reflect poor design and cause no adverse impacts to neighbouring properties, subject to recommended conditions to maintain views. The green roof/rooftop garden behind the approved structures under **DA-379/2019** is to be retained with the proposal.

- **Development over time and the Existing Building**

**Issue: "The site at No.79 Oceanview has clearly had a long history of incrementally modifying this particular dual occupancy development over the years (9 DAs over 17 years), to gradually achieve more bedrooms, increase height, floor area, rooftop terraces etc."**

**Issue: Works previously approved have not been complied with.**

**Issue: Building has broken so many rules already with regards to height and floor space ratio non-compliances.**

**Issue: No privacy and view loss from existing building.**

**Response:** A detailed site history has been provided in section 1.2 of this report. The application is to be assessed on the current works proposed under this subject application and therefore, the above commentary on the existing building is irrelevant.

## **2.5 Public Interest**

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## **3. REFERRALS**

### **3.1 Stormwater (Infrastructure Services)**

The application was referred to Council's Public Infrastructure Engineer (Stormwater) who raised no objection to the proposal, subject to the imposition of a recommended condition to prepare a stormwater management plan.

## **4. SUMMARY**

The application seeks consent for alterations and additions to a dual occupancy development including internal reconfiguration for an additional bedroom, two balconies and extension to the deck at ground level (third level). The application was notified and received a total of four unique submissions on behalf of five properties, largely concerned with amenity impacts to the adjoining residential flat building at 67-77 Oceanview Avenue. The main issues with the proposal are summarised below:

- The proposal further exceeds Council's FSR development standard, resulting in a 28.98% variation to the control. A Clause 4.6 has been submitted and the proposed additional GFA is considered to be acceptable, given that the works are not visible from the primary streetscape



(Oceanview Avenue); result in no adverse amenity impacts; and largely replicate the works approved on the level above for Unit 2 as approved under **DA-379/2019**.

- The approved deck under **DA-379/2019** at the ground floor level (third level) is proposed to be extended further to the east over an approved green roof. The deck will have a total area of approximately 23m<sup>2</sup> that is non-compliant with Council's requirements for elevated structures; however, the proposed deck is not considered to result in any unreasonable noise or overlooking impacts and is acceptable on merit. Conditions of consent are recommended to ensure views are maintained from the adjoining residential flat building, involving the deletion of any solid portion of wall to the south and replacement with a clear glass balustrade only, as well as a condition to ensure no shading device is erected above the deck.

Given the above, the proposal is considered to be acceptable on merit and is recommended to be approved, subject to conditions.

#### **DBU Decision**

The application and assessment report was reviewed by the DBU at the meeting on 15 December 2020 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: M Reid, A Rossi, B McNamara, E Finnegan

#### **5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

**Report prepared by:**

**Application reviewed and agreed on behalf of  
the Development and Building Unit by:**



Judith Elijah  
**Development Assessment Planner**

Bridget McNamara  
**Manager, Development Assessment  
(North/South)**

**Date:** 6 January 2021

**Date:** 20 January 2021

**Reason for referral:**

- 1 Departure from any development standard in an EPI by more than 10%

## **APPENDIX A – CONDITIONS OF CONSENT**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by Dre Design of Project No. 0532 including the following:

<b>Plan Number and Revision</b>	<b>Plan Description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA-01 Rev A	Site Context & General Info	15/10/2020	5 November 2020
DA-02 Rev A	Existing/Demolition Plans	15/10/2020	5 November 2020
DA-03 Rev A	Basement & Lower Ground Floor Plans	15/10/2020	5 November 2020
DA-04 Rev A	Ground Floor & Roof Plans	15/10/2020	5 November 2020
DA-05 Rev A	Elevations	15/10/2020	5 November 2020
DA-06 Rev A	Sections A-A + B-B	15/10/2020	24 December 2020

(b) BASIX Certificate;

(c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 (05/11/2020);

Except where amended by the following conditions of consent.

#### **2. GENERAL MODIFICATIONS**

The application is approved subject to the following plan amendments to maintain views from adjoining properties;

(a) All solid portions to the southern elevation of the deck extension at the ground floor level are to be deleted and replaced with clear glass balustrade.

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

#### **3. NO SHADE STRUCTURE TO BE ERECTED**

No shade structure such as a shade sail or the like is to be erected over the deck at the ground floor level of the building to maintain views from adjoining properties.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **5. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act, 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

#### **6. SECTION 7.12 CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- (i) A development valued at \$100,000 or less will be exempt from the levy.
- (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
- (iii) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## **7. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$6,457.90** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **8. LONG SERVICE LEVY**

A long service levy, as required under Section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **CONSTRUCTION MATTERS**

### **9. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

### **10. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

## **11. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **12. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

## **13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

## **STORMWATER & FLOODING**

### **14. STORMWATER MANAGEMENT AND PUBLIC INFRASTRUCTURE MANAGEMENT**

The applicant must engage a suitably qualified and practising Civil Engineer to undertake a stormwater management plan with relevant details to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of Development Application approval.

The stormwater management plan must ensure that the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system.

Certification that all stormwater drainage has been designed as per the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice must be submitted to the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the Construction Certificate. The following points must be addressed:

- a) Seepage water from basement car parks and sub surface flows from structures that intersect high ground water flows shall be pumped and harvested onsite or piped to the underground stormwater drainage system. Direct or indirect connections to Council's street gutter is not permitted.
- b) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### **15. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

### **WASTE**

#### **16. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

#### **PRIOR TO ANY WORKS**

#### **17. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

## **18. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners on request.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## **DEMOLITION & EXCAVATION**

### **19. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

### **20. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

## **CONSTRUCTION MATTERS**

### **21. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays;
- (b) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

### **22. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

### **23. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **24. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.



## **25. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

## **26. CERTIFICATION OF STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Hydraulics Engineer or Plumber, that the stormwater drainage system is unblocked, in good working order and to be repair/replaced in accordance with Council's Water Management Technical Manual.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) , in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

### **AD2. SYDNEY WATER REQUIREMENTS**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**AD3. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

**AD4. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

**RECEIVED**  
**Waverley Council**

**Application No: DA-373/2020**

**Date Received: 05/11/2020**

- DRAWING LIST**
- DA-01 SITE ANALYSIS & CONTEXT
  - DA-02 EXISTING PLANS/DEMOLITION
  - DA-03 BASEMENT & LWR GRND FL PLANS
  - DA-04 GRND FL & ROOF PLANS
  - DA-05 ELEVATIONS
  - DA-06 SECTIONS
  - DA-07 MATERIALS + AREA CALCULATIONS

**BASIX - UNIT 1**

Certificate number: A395496  
Date of issue: Monday, 02, November 2020  
To be valid, this certificate must be lodged within 3 months of the date of issue.

**Lighting**  
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.

**Fixtures**  
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.  
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.  
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

Construction	Additional insulation required (R-value)	Other specifications
concrete slab on ground floor.	nil	
floor above existing dwelling or building.	nil	
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)	

**Windows and glazed doors glazing requirements**

Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing		Shading device	Frame and glass type
			Height (m)	Distance (m)		
WB01	E	7	0	0	projection/height above sill ratio >=0.23	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)

**BASIX - UNIT 2**

Certificate number: A395513

**Lighting**  
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.

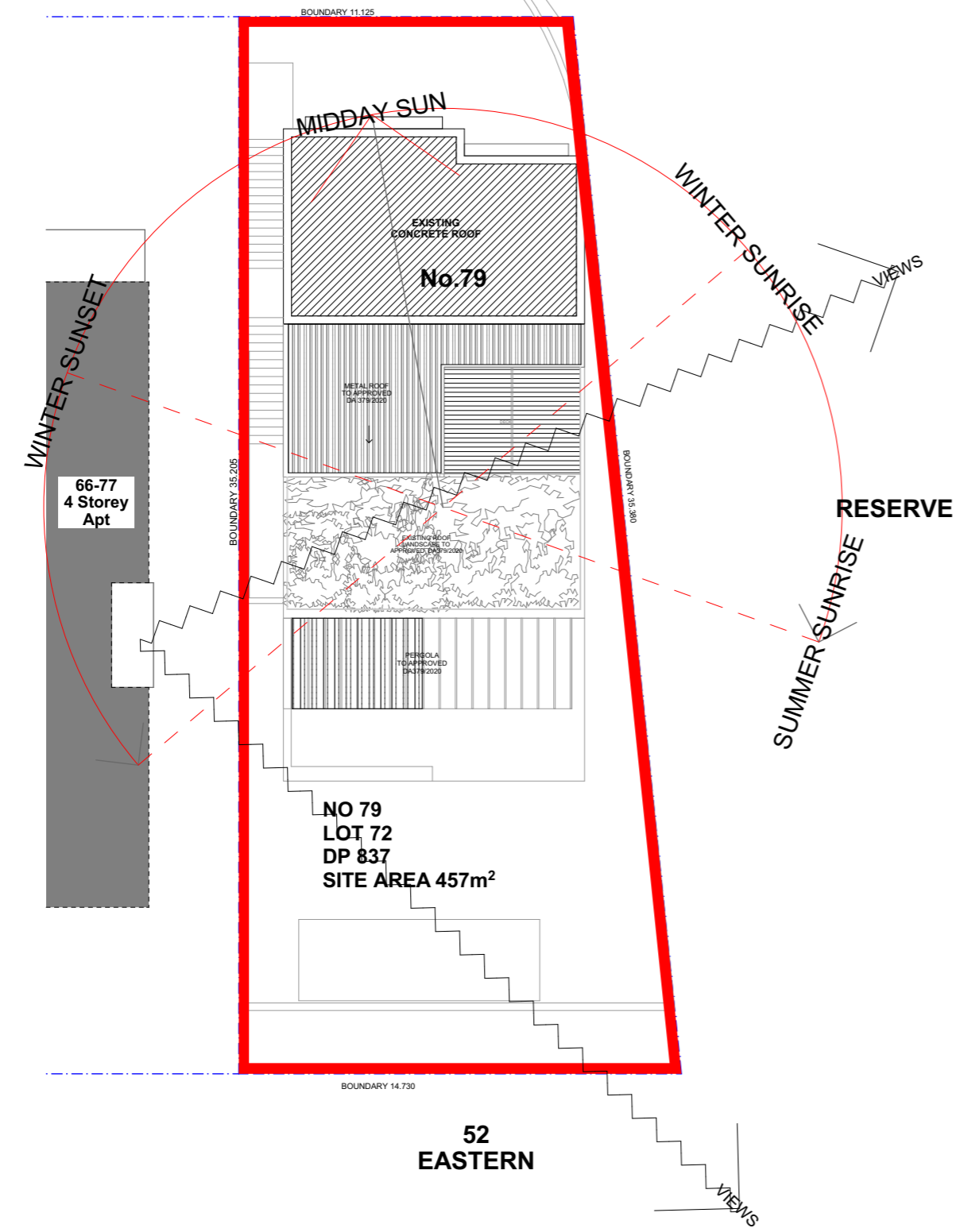
**Fixtures**  
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.  
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.  
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

**Insulation requirements**  
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.

Construction	Additional insulation required (R-value)	Other specifications
floor above existing dwelling or building.	nil	
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)	

**Windows and glazed doors glazing requirements**

Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing		Shading device	Frame and glass type
			Height (m)	Distance (m)		
WL01	E	7	0	0	projection/height above sill ratio >=0.23	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)



**ISSUE**  
A - DEVELOPMENT APPLICATION 15/10/2020

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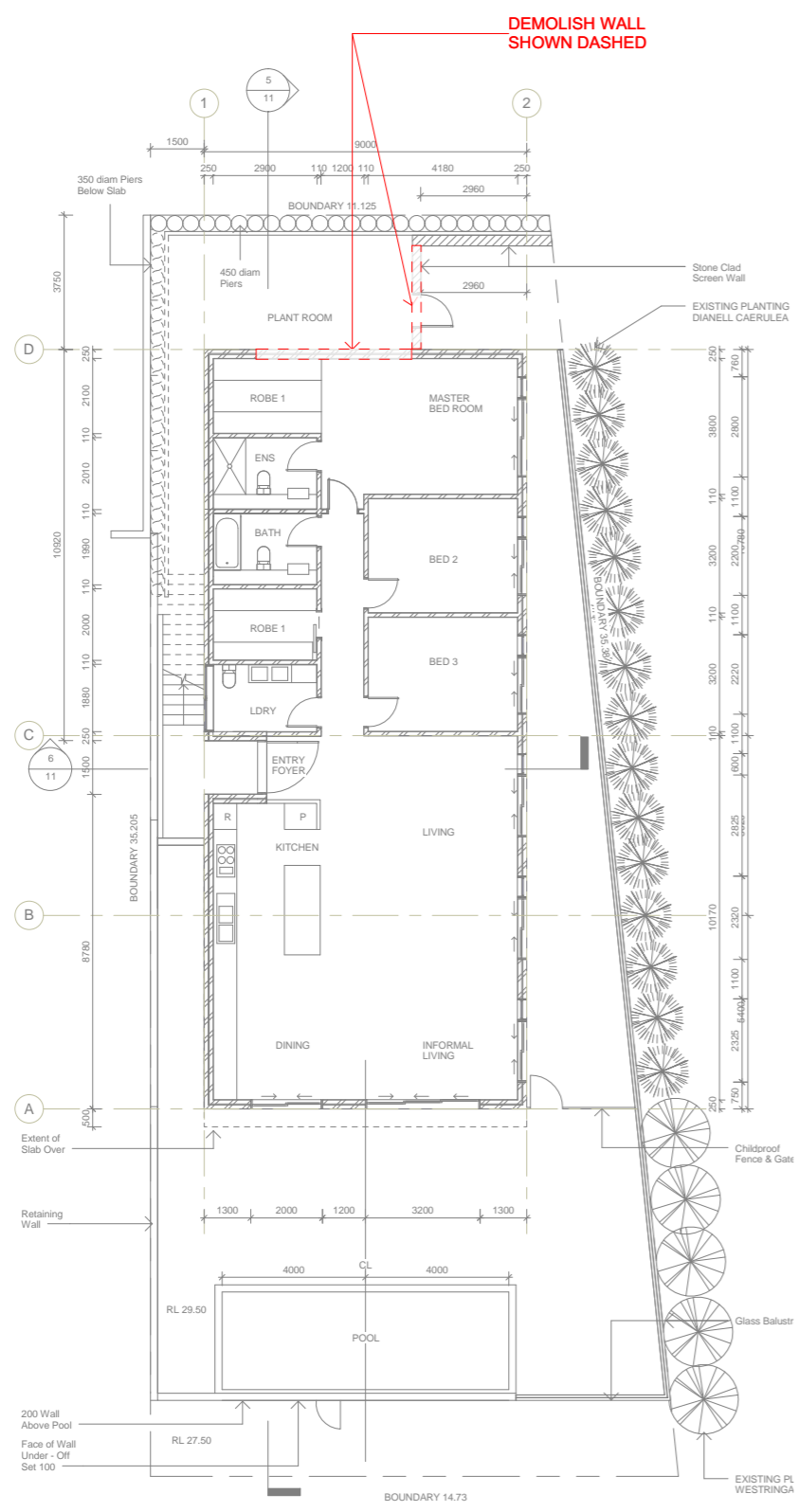
**DRE DESIGN**  
ARCHITECTURE PLANNING URBAN DESIGN  
(ABN) 9 061 832 313  
38 RAWSON AVE QUEENS PARK NSW 2022  
P: + 02 93694556  
E: INFO@DREDESIGN.COM.AU  
ARCHITECT - DAVID EPSTEIN ARB NSW REG: 9072

PROJECT NAME :  
**ALTERATIONS & ADDITIONS**  
AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
FOR: CATHY PENG & ANTHONY LEWY  
DRAWING TITLE :  
**SITE CONTEXT + GENERAL INFO**

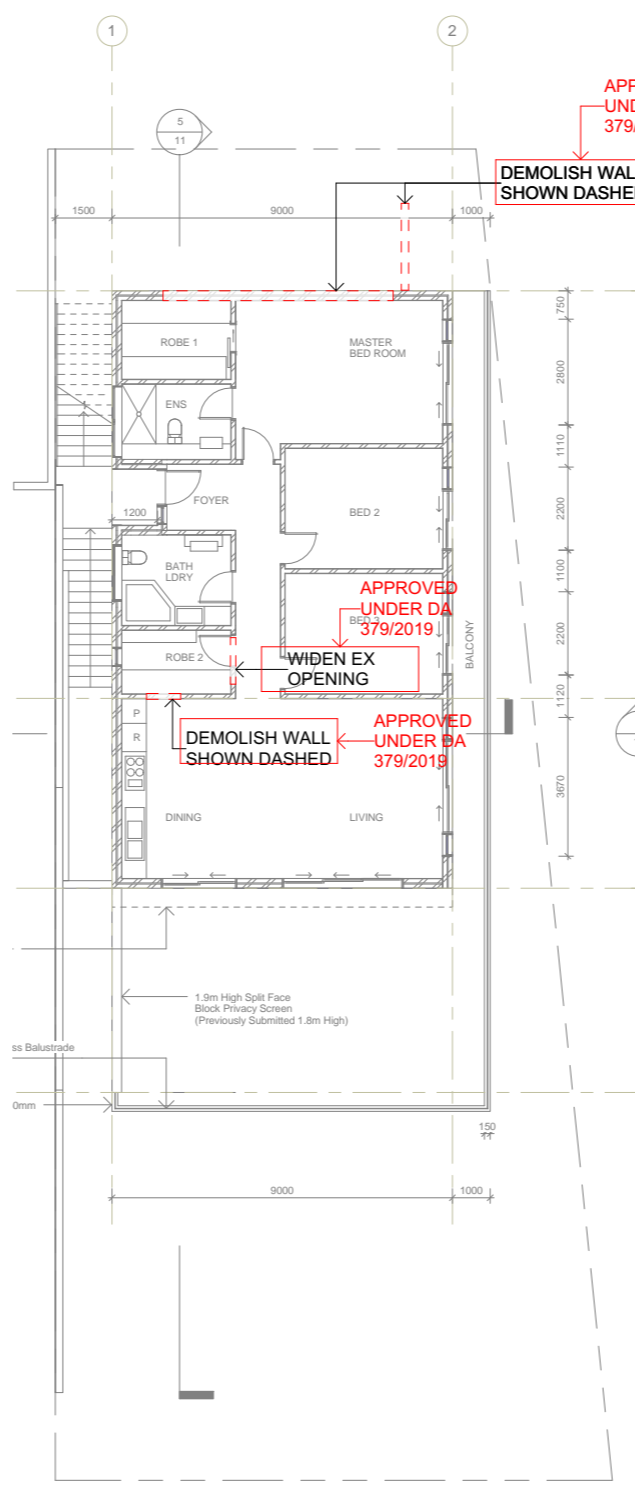
DATE:  
**15 OCTOBER 2020**  
SCALE:  
**AS SHOWN @A3**  
PROJECT NO.  
**0532**

ISSUE.  
**A**  
DRAWING NO.  
**DA-01**

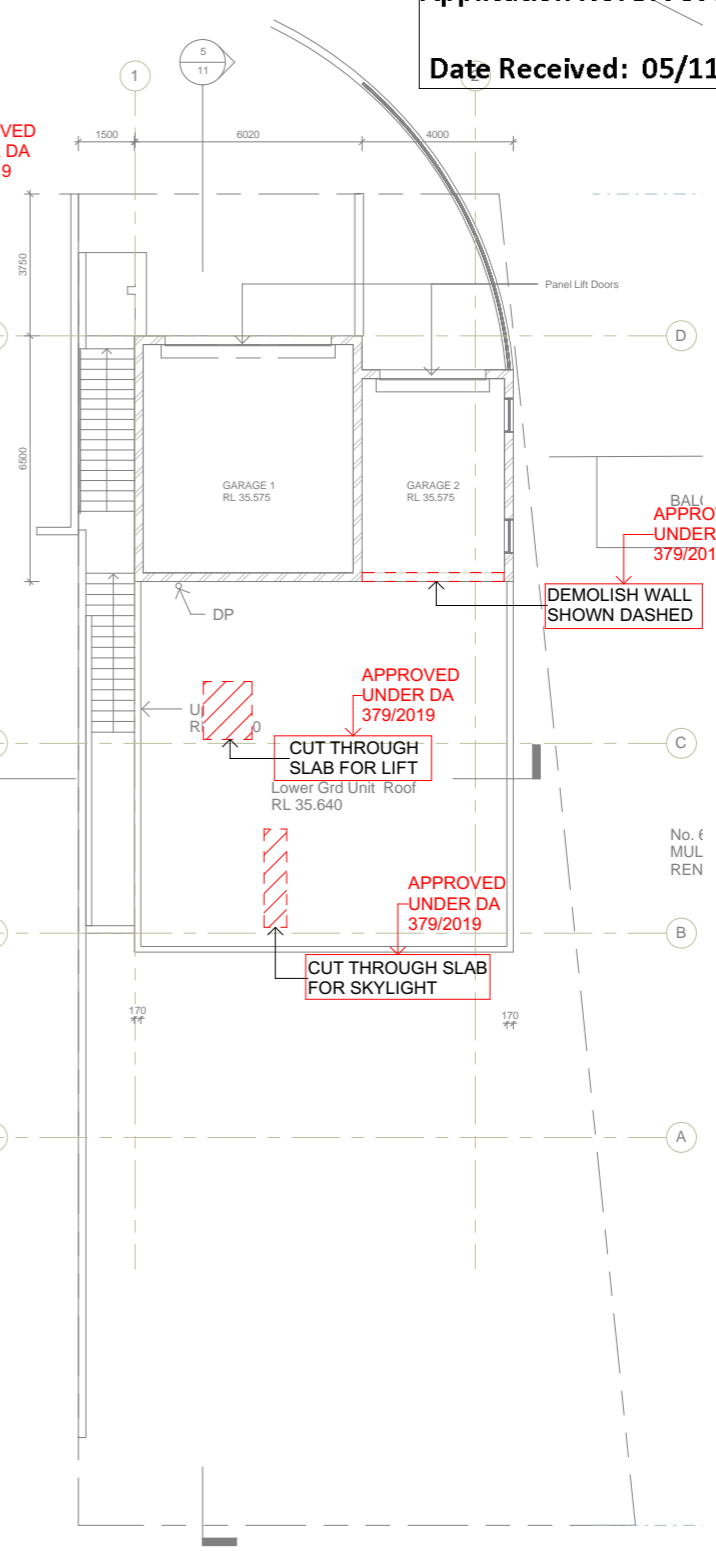
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Application No: DA-373/2020  
Date Received: 05/11/2020



BASEMENT PLAN 1:100



LOWER GROUND FLOOR PLAN 1:100



GROUND FLOOR PLAN 1:100

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A - DEVELOPMENT APPLICATION 15/10/2020

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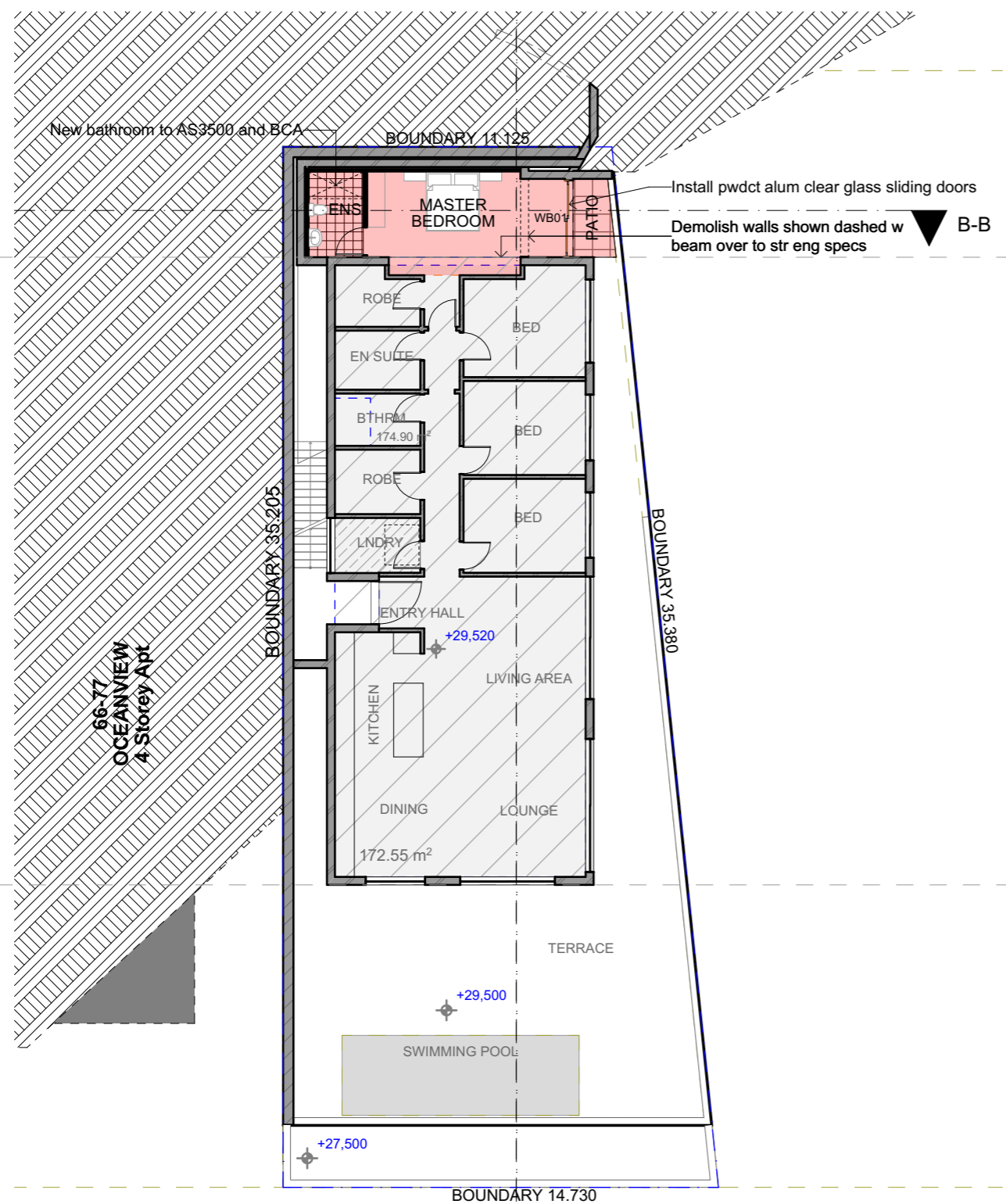
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38 RAWSON AVE QUEENS PARK NSW 2022  
P: + 02 93694556  
E: INFO@DREDESIGN.COM.AU  
ARCHITECT - DAVID EPSTEIN ARB NSW REG: 9072

PROJECT NAME:  
**ALTERATIONS & ADDITIONS**  
AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
FOR: CATHY PENG & ANTHONY LEWY  
DRAWING TITLE:  
**EXISTING/DEMOLITION PLANS**

DATE:  
**15 OCTOBER 2020**  
SCALE:  
N.T.S  
PROJECT NO.  
**0532**

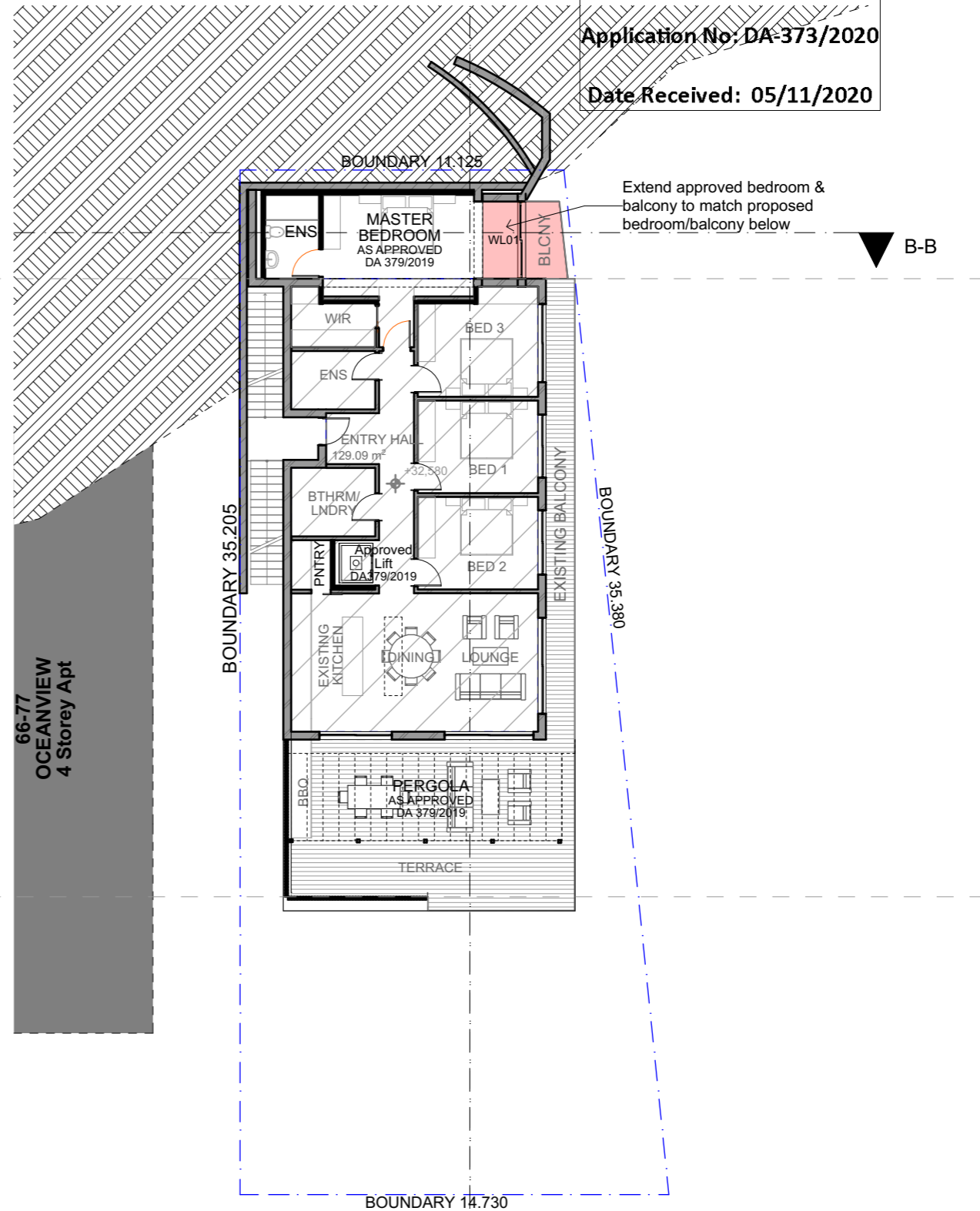
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**A**  
DRAWING NO.  
**DA-02**

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Application No: DA-373/2020  
Date Received: 05/11/2020



BASEMENT FLOOR PLAN - 1:200 (LOT 1)

A-A



LOWER GROUND FLOOR PLAN - 1:200 (LOT 2)

A-A

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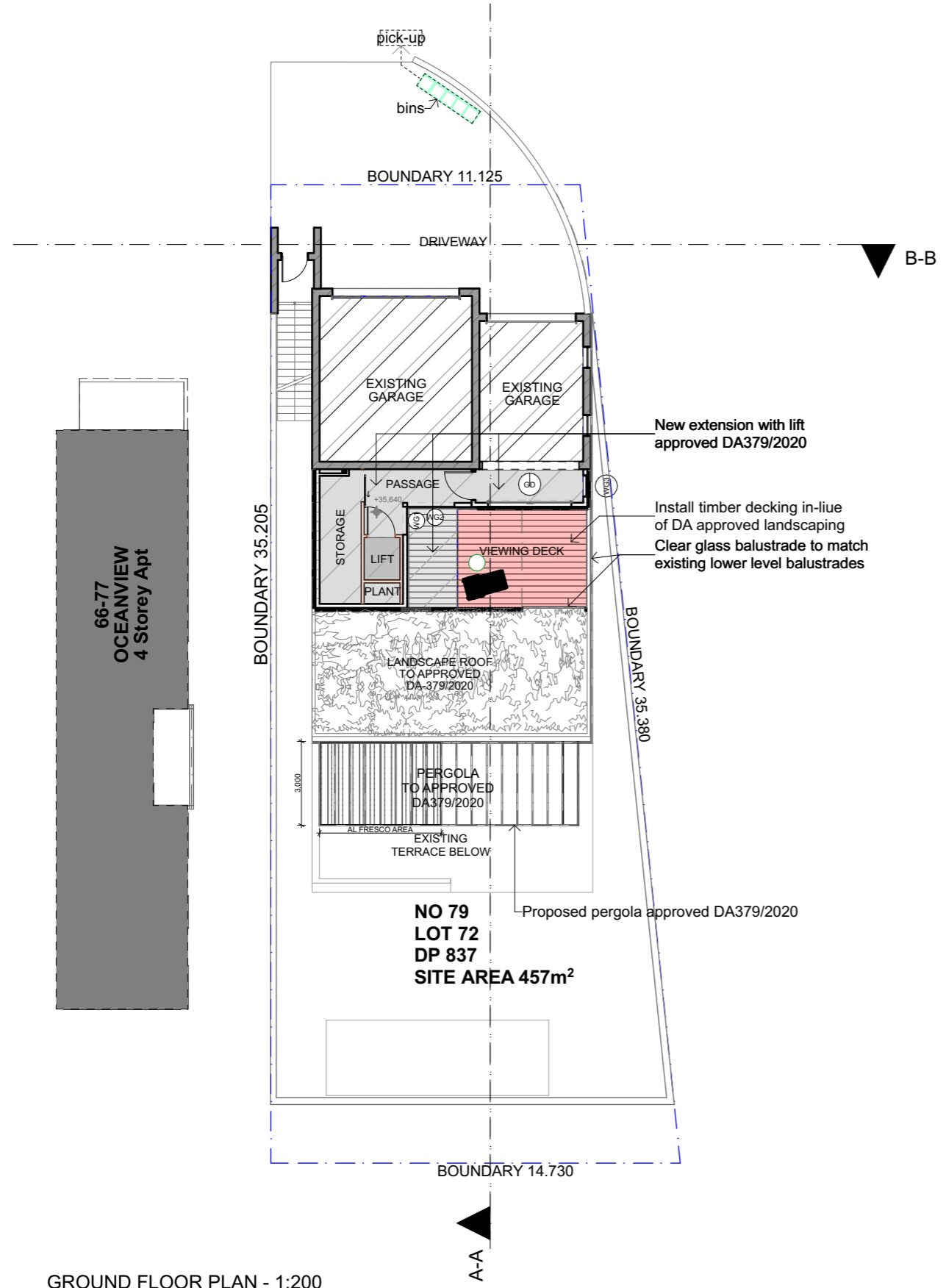
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38 RAWSON AVE QUEENS PARK NSW 2022  
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ARCHITECT - DAVID EPSTEIN ARB NSW REG: 9072

PROJECT NAME:  
**ALTERATIONS & ADDITIONS**  
AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
FOR: CATHY PENG & ANTHONY LEWY  
DRAWING TITLE:  
**SKETCH PLANS**  
**BASEMENT + LWR GRND FL PLANS**

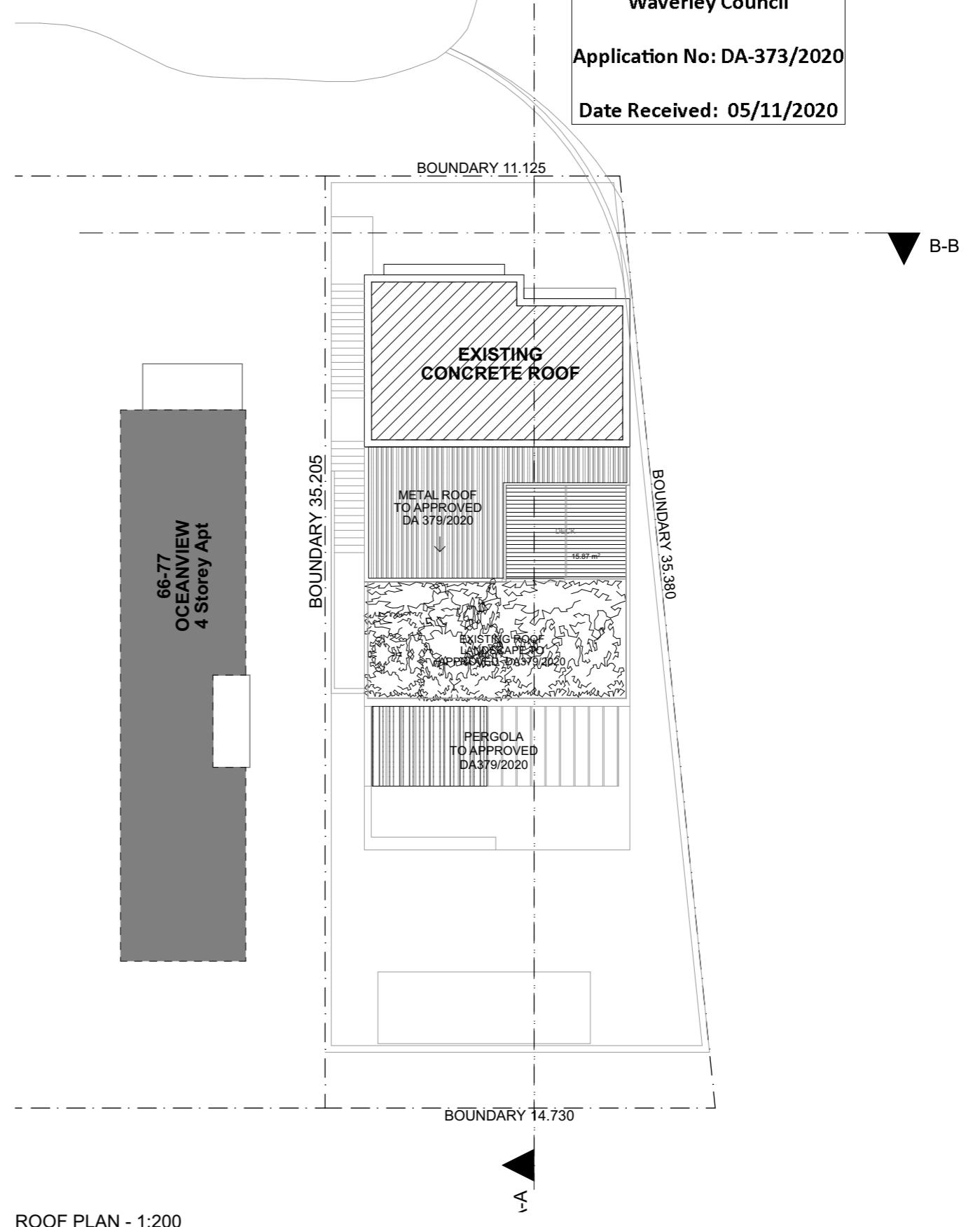
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**15 OCTOBER 2020**  
SCALE:  
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PROJECT NO.  
**0532**

ISSUE.  
**A**  
DRAWING NO.  
**DA-03**

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Date Received: 05/11/2020



GROUND FLOOR PLAN - 1:200



ROOF PLAN - 1:200

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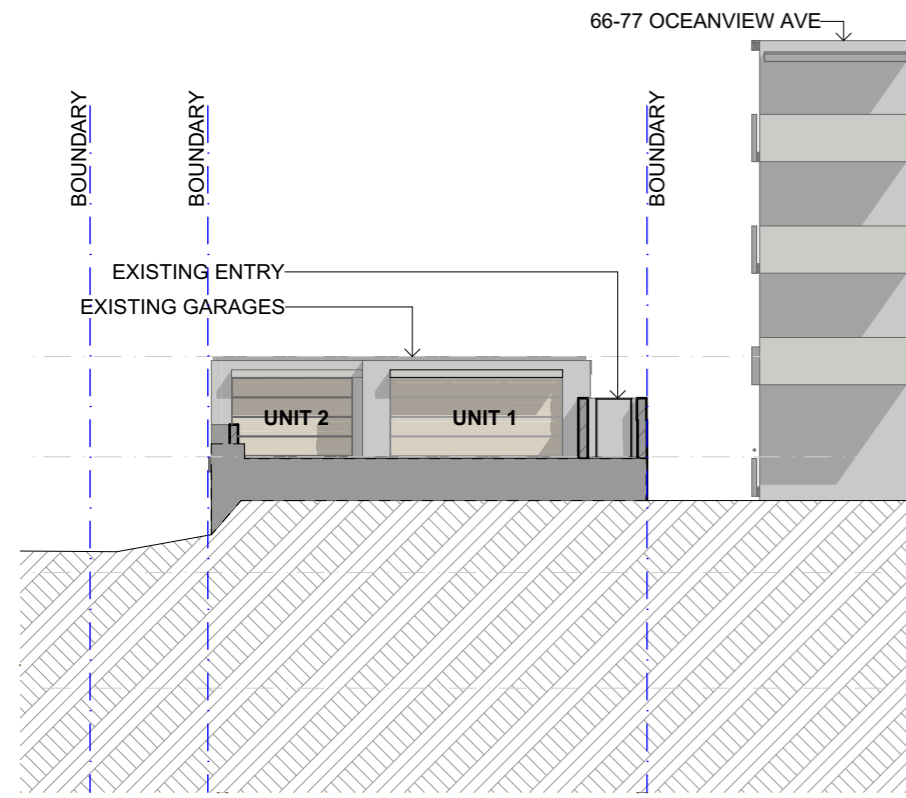
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38 RAWSON AVE QUEENS PARK NSW 2022  
P: + 02 93694556  
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ARCHITECT - DAVID EPSTEIN ARB NSW REG: 9072

PROJECT NAME:  
**ALTERATIONS & ADDITIONS**  
AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
FOR: CATHY PENG & ANTHONY LEWY  
DRAWING TITLE:  
**SKETCH PLANS  
GRND FL + ROOF PLANS**

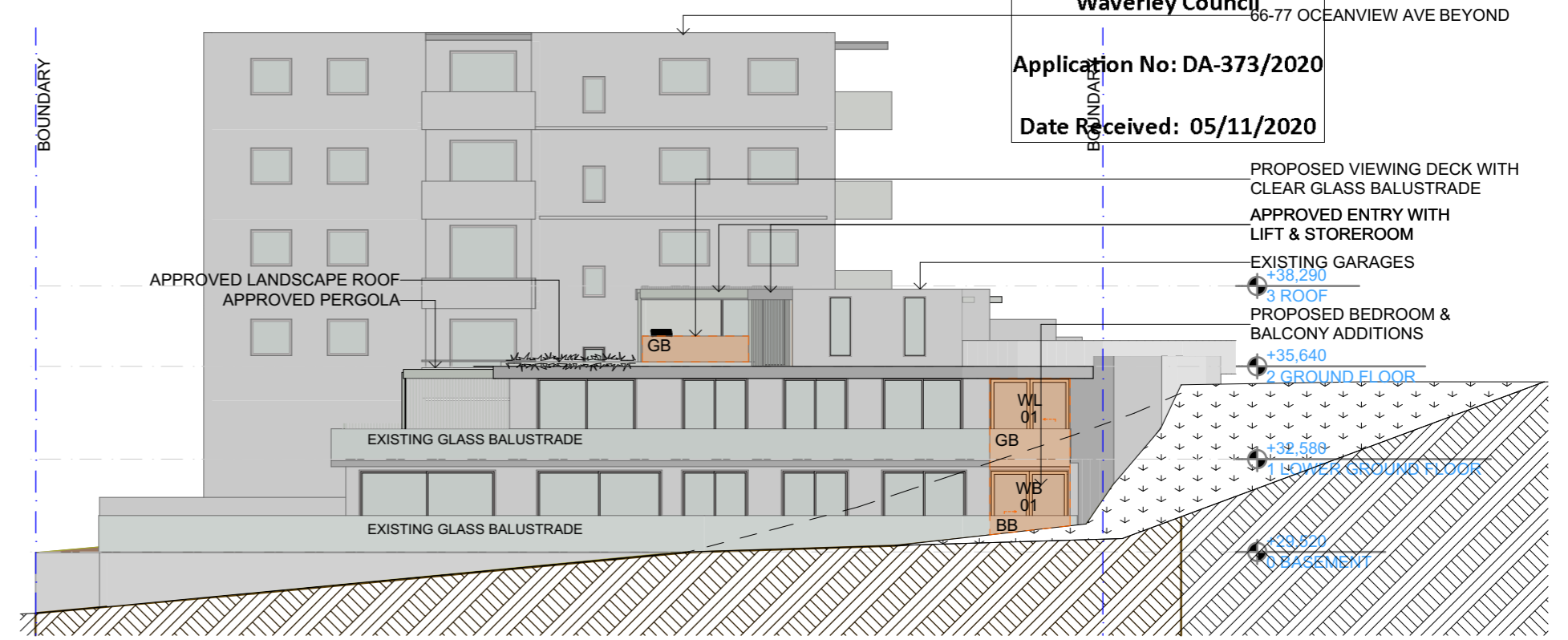
DATE:  
15 OCTOBER 2020  
SCALE:  
**AS SHOWN @A3**  
PROJECT NO.  
**0532**

ISSUE.  
**A**  
DRAWING NO.  
**DA-04**

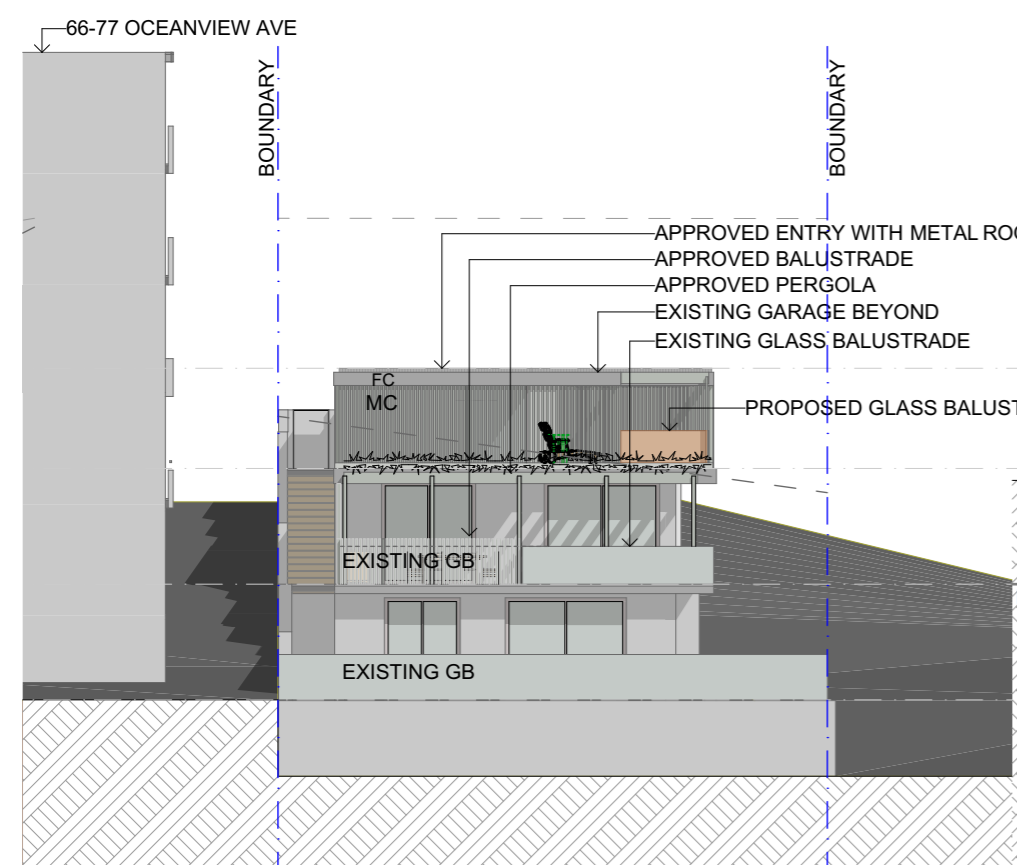
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 Application No: DA-373/2020  
 Date Received: 05/11/2020



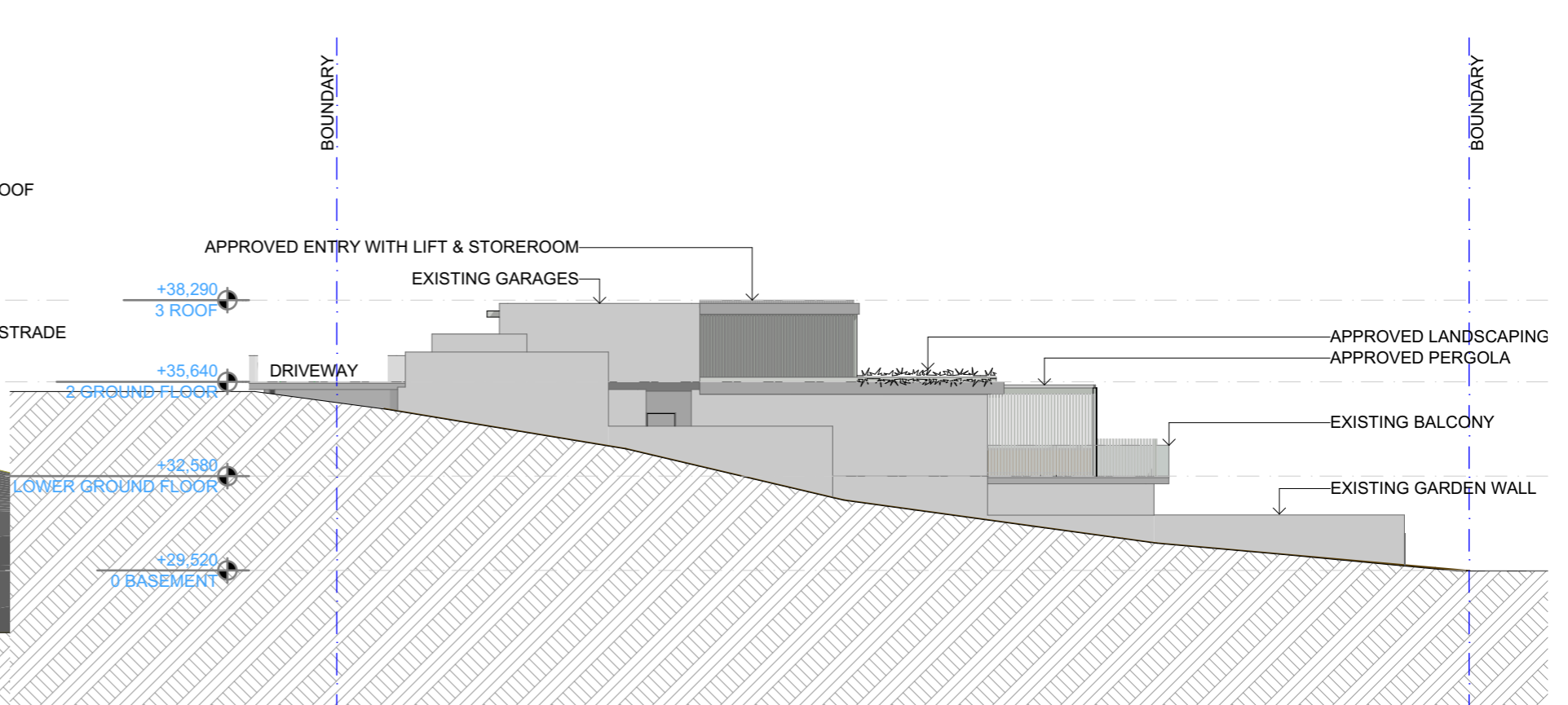
E-01 NORTH ELEVATION (OCEANVIEW AVE)  
 1:200



E-02 EAST ELEVATION  
 1:200



E-03 SOUTH ELEVATION  
 1:200



E-04 WEST ELEVATION  
 1:200

ISSUE  
 A - DEVELOPMENT APPLICATION 15/10/2020

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PROJECT NAME:  
**ALTERATIONS & ADDITIONS**  
 AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
 FOR: CATHY PENG & ANTHONY LEWY  
 DRAWING TITLE:  
**DA PLANS  
 ELEVATIONS**

DATE:  
**15 OCTOBER 2020**  
 SCALE:  
**AS SHOWN @A3**  
 PROJECT NO.  
**0532**

ISSUE:  
**A**  
 DRAWING NO.  
**DA-05**

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# AMENDED PLANS

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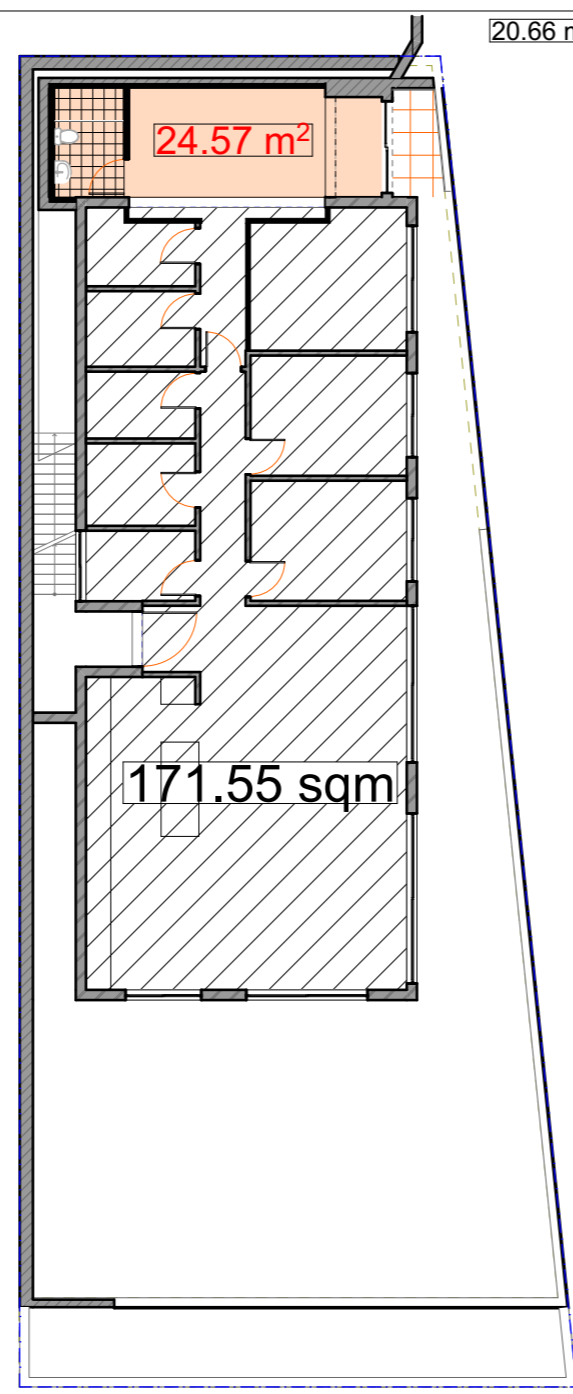
Application No: DA-373/2020

Date Received: 23/12/2020

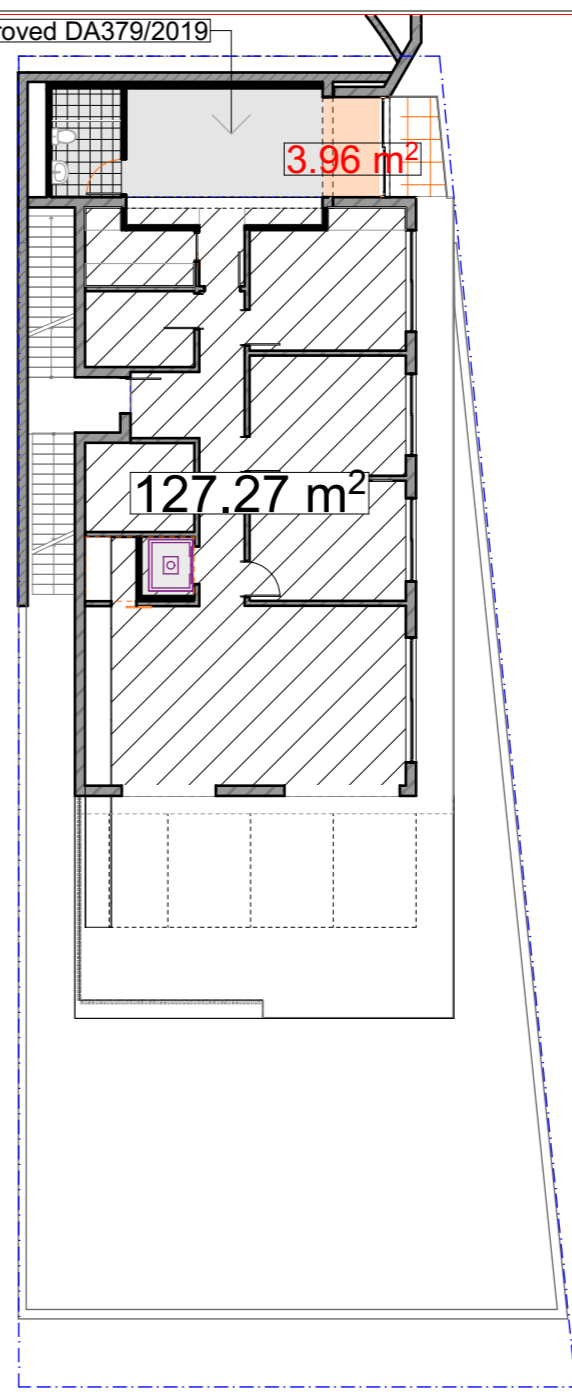
01 - LANDSCAPED ROOF



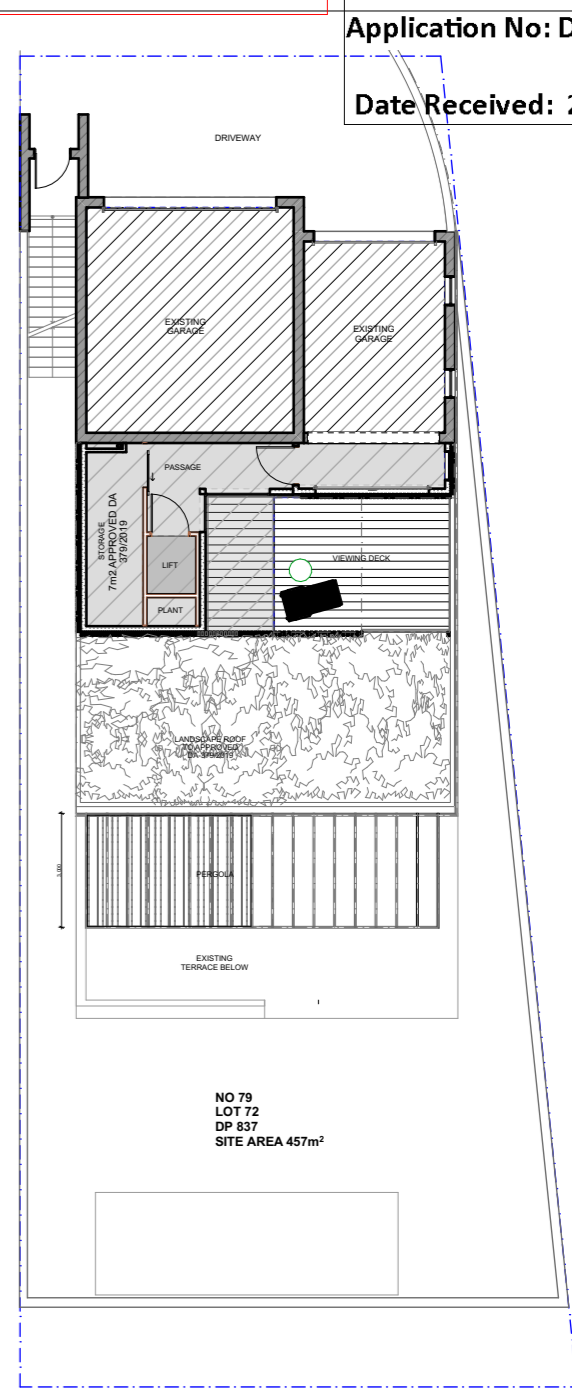
02 - WHITE VERTICAL BATTEN CLADDING



**BASEMENT LEVEL**

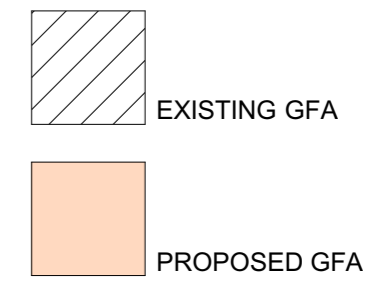


**LOWER GROUND FLOOR LEVEL**



**GROUND FLOOR LEVEL KEY**

**AREA CALCULATIONS**  
 Site Area: 457m<sup>2</sup>  
 Existing GFA: 296.5m<sup>2</sup>  
 Existing FSR: 0.65:1  
 Max FSR (WLEP): 0.6:1 (275.25m<sup>2</sup>)  
 Approved GFA: 326.5m<sup>2</sup> (FSR 0.71:1)  
 Proposed GFA: 355m<sup>2</sup> (FSR 0.777:1)



ISSUE  
A - DEVELOPMENT APPLICATION 15/10/2020

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 38 RAWSON AVE QUEENS PARK NSW 2022  
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 ARCHITECT - DAVID EPSTEIN ARB NSW REG: 9072

PROJECT NAME:  
**ALTERATIONS & ADDITIONS**  
 AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
 FOR: CATHY PENG & ANTHONY LEWY

DRAWING TITLE:  
**DETAILS**  
**AREA CALCULATIONS, MATERIALS**

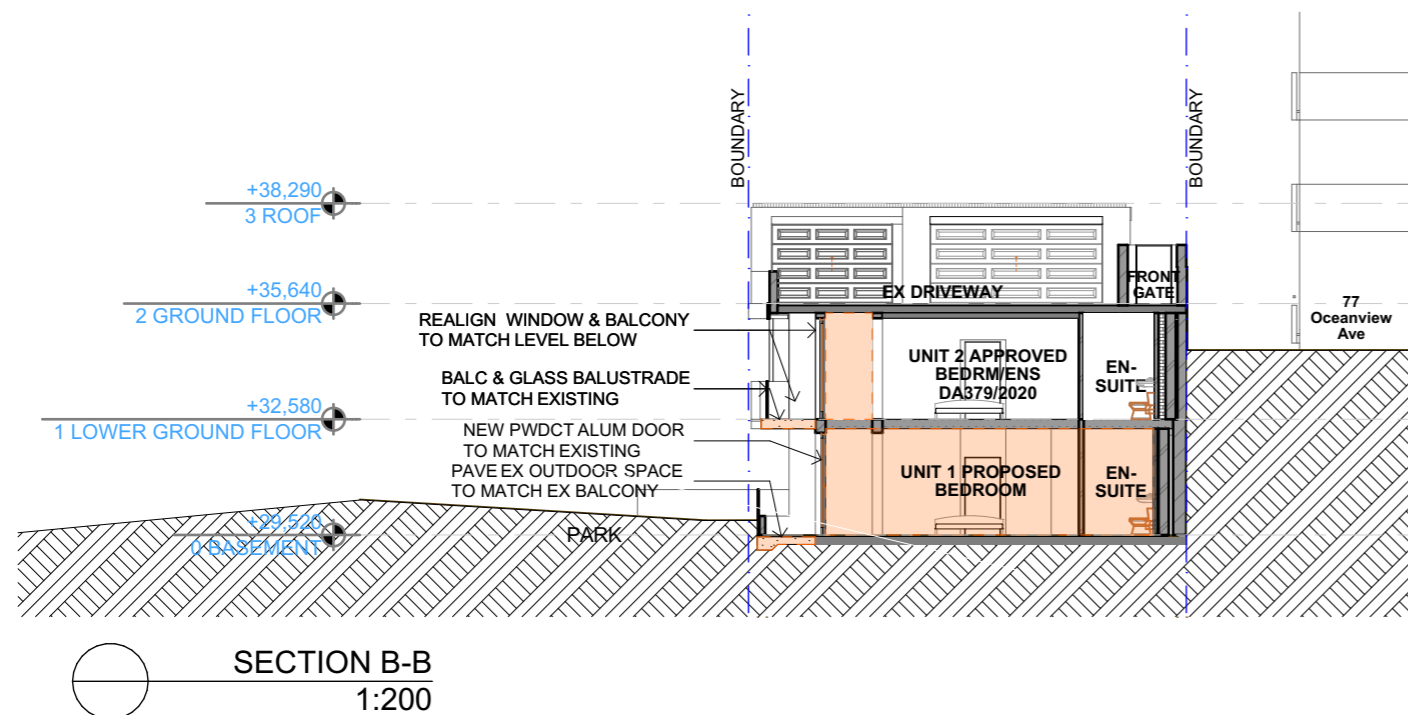
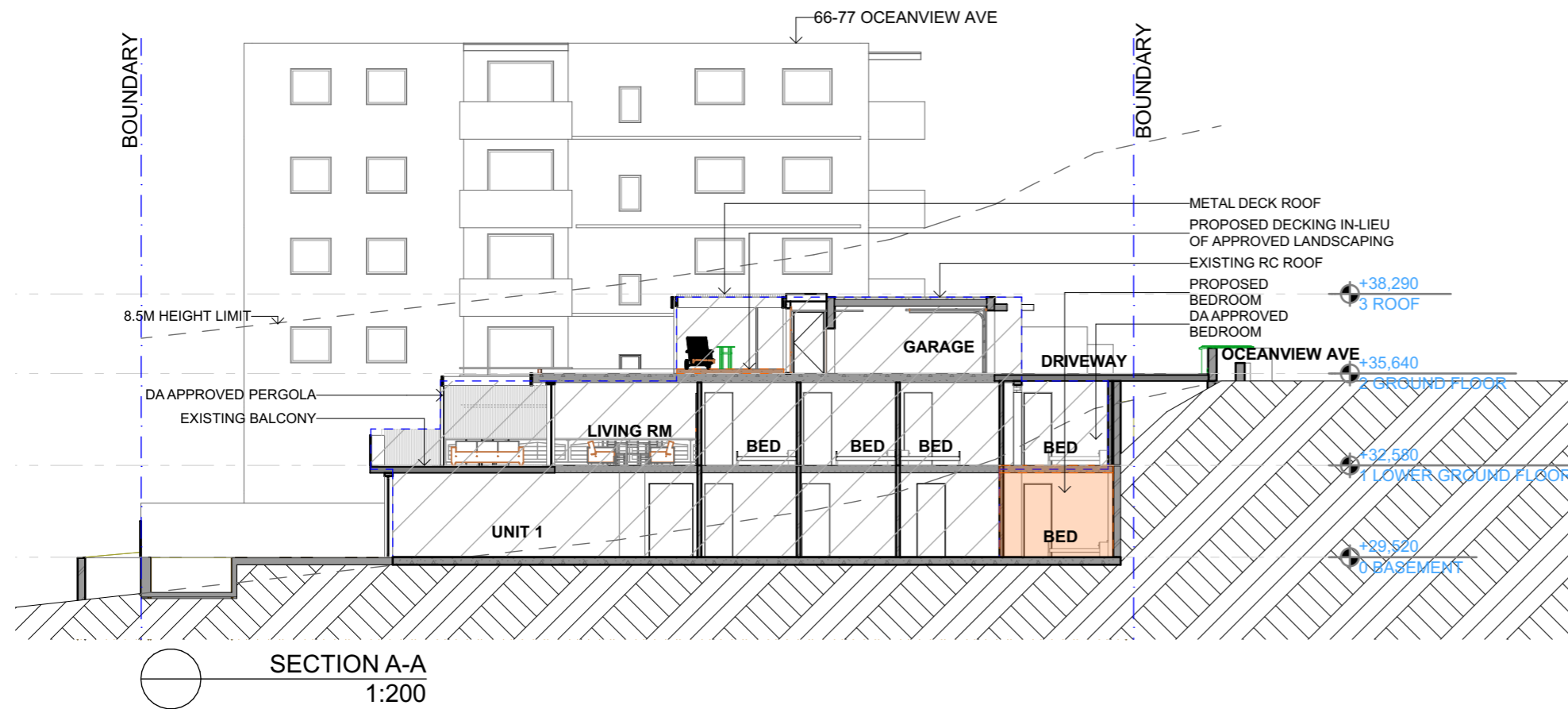
DATE:  
23 December 2020  
 SCALE:  
**AS SHOWN @A3**  
 PROJECT NO.  
**0532**

ISSUE.  
**A**  
 DRAWING NO.  
**DA-07**



# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-373/2020  
Date Received: 24/12/2020



ISSUE  
A - DEVELOPMENT APPLICATION 15/10/2020

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ARCHITECT - DAVID EPSTEIN ARB NSW REG: 9072

PROJECT NAME:  
**ALTERATIONS & ADDITIONS**  
AT: SP92728, 79 OCEANVIEW AVE, DOVER HEIGHTS  
FOR: CATHY PENG & ANTHONY LEWY  
DRAWING TITLE:  
**SECTIONS  
A-A + B-B**

DATE:  
15 OCTOBER 2020  
SCALE:  
**AS SHOWN @A3**  
PROJECT NO.  
**0532**

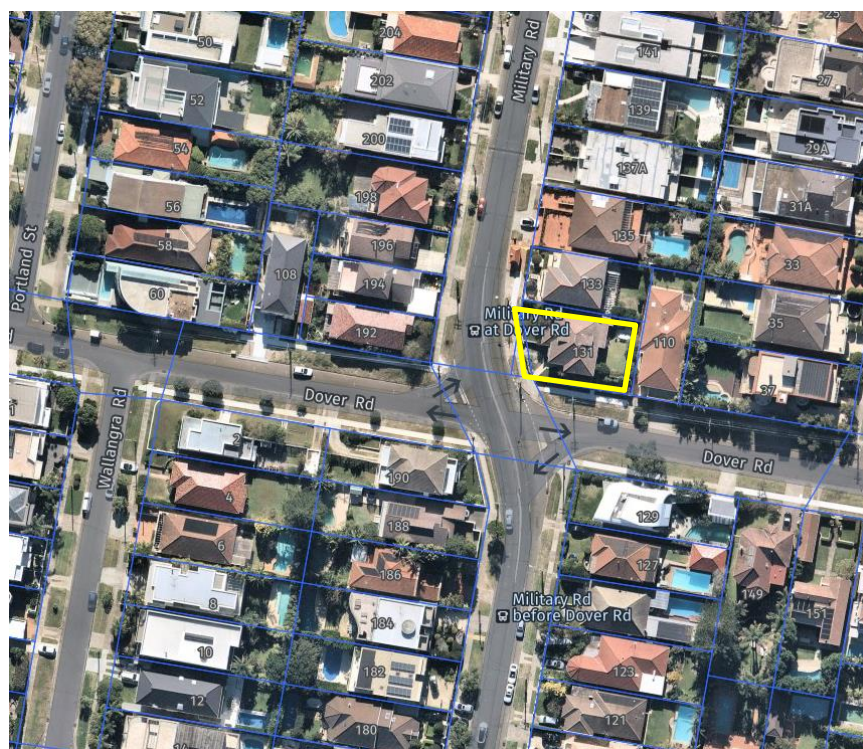
ISSUE:  
**A**  
DRAWING NO.  
**DA-06**



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-259/2020
<b>Site address</b>	131 Military Road, DOVER HEIGHTS
<b>Proposal</b>	Demolition of existing dwelling and construction of a two-storey attached dual occupancy with basement parking, swimming pools, landscape works, roof terraces and associated Strata subdivision.
<b>Date of lodgement</b>	19 August 2020
<b>Owner</b>	Mr N Ziade
<b>Applicant</b>	Mr N Ziade
<b>Submissions</b>	Original: Two Amended: Nil
<b>Cost of works</b>	\$1,651,273.00
<b>Issues</b>	Height of Building, Floor Space Ratio, Two driveway crossovers
<b>Recommendation</b>	That the application be APPROVED

**Site Map**



## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 23 October 2020.

The site is identified as Lot 2 in DP 333255, known as 131 Military Road, Dover Heights. The site is irregular in shape with a western frontage to Military Road of 19.78m, a secondary southern frontage to Dover Road of 24.385m, a western rear boundary of 18.93m and a northern side boundary of 29.87m. The site has an area of 524.9m<sup>2</sup> and slopes from the north east to the south west by approximately 3.15m.

The site currently has a single storey brick dwelling house with attic. Vehicular access is provided to an attached garage located under the house from Military Road.

The subject site is adjoined by detached dwellings to either side. The locality primarily consists of large detached dwellings and dual-occupancies.



**Figure 1:** Site viewed from the corner of Military Road and Dover Road looking east



**Figure 2:** Rear of existing dwelling



**Figure 1:** Site viewed from existing private open space, looking south

## 1.2 Relevant History

There is no relevant planning history.

## 1.3 Proposal

The proposal is to demolish the existing dwelling and construct a two-storey attached dual occupancy with basement parking, swimming pools, landscape works, separate roof terraces and associated Strata subdivision (Dwelling 1 is to the north and Dwelling 2 to the south). In detail, each dwelling will consist of:

### Lower Ground Floor

- Two car garage with associated plant room and stairs to ground floor. Dwelling 1 will have vehicular access from Military Road and Dwelling 2 will have vehicular access from Dover Road.

### Ground Floor

- External stairs from public footpath to front verandah;
- Combined living rooms, dining room and kitchen;
- Walk in pantry;
- Laundry;
- Powder Room;
- Rear deck with associated BBQ;
- In-ground pool; and
- Stairs to first floor

### First Floor

- Master bedroom with associated WIR, ensuite and balcony;
- Study. Dwelling 2 will have an attached balcony facing Dover Road;
- Bathroom; and
- Two x bedrooms with shared balcony.

### Roof top

- 15m<sup>2</sup> roof terrace accessed via roof hatch.

### External

- New fencing/retaining wall on boundaries; and
- Significant landscaping.

The application was originally deferred, as concern was raised with the following:

- Height and setbacks;
- Fencing details;
- Visual privacy measures;
- Balcony and roof terrace size;

- Shadow diagrams to show additional detail;
- The amount of fill to the private open space was not supported; and
- Additional traffic and parking details were to be provided.

The amended plans to address the above were received on 30 November 2020 and were re-notified on 4 December 2020 for 14 days.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this Development Application (DA) under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans.

#### 2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX and NATHERS Certificate has been submitted with the DA.

The BASIX Certificate and NatHERs certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate and NatHERs certificate are incorporated into the Construction Certificate drawings and implemented.

#### 2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

#### 2.1.3 Waverley Local Environmental Plan 2012 (WLEP)

The relevant matters to be considered under the WLEP for the proposed development are outlined below:

**Table 1: WLEP Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the WLEP.
<b>Part 2 Permitted or prohibited development</b>		
2.6 Subdivision – consent requirements	N/A	This clause does not apply to Strata subdivision.
Land Use Table <i>Low Density Residential (R2) Zone</i>	Yes	The proposal is defined as a dual-occupancy, which is permitted with consent in the R2 zone.

Provision	Compliance	Comment
<b>Part 4 Principal development standards</b>		
4.1 Minimum subdivision lot size	N/A	This clause does not apply to Strata subdivision.
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	No	The below figures demonstrate the maximum parapet and balustrading height. <u>Top Parapet</u> 8.5m <u>Top of Balustrading</u> 9.18m The development will exceed the development standard by 0.68m or 8%.
4.4A Exceptions to Floor Space Ratio (FSR) <ul style="list-style-type: none"> <li>Site Area: 524.9m<sup>2</sup></li> <li>Max GFA: 276.9m<sup>2</sup></li> <li>Max FSR: 0.53:1</li> </ul>	No	The development will have a FSR of: Gross Floor Area (GFA) Calculations: Basement: Nil Ground Floor: 218.1m <sup>2</sup> First Floor: 198.5m <sup>2</sup> Rooftop: Nil Total: 416.6m <sup>2</sup> FSR: 0.8:1 The development will exceed the development standard by 139.7m <sup>2</sup> or 50%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of the WLEP to vary the height of building and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	The earthworks proposed are satisfactory.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the WLEP

#### **Clause 4.6 Exceptions to Development Standards - FSR**

The application seeks to vary the FSR development standard in Clause 4.4 of the WLEP.

The site is subject to a maximum FSR control of 0.53:1. The proposed development has a FSR of 0.8:1, exceeding the standard by 139.7m<sup>2</sup> equating to a 50% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the WLEP seeking to justify the contravention of the development standard by demonstrating:

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) *The proposal meets objective (b) of the development standard as the:*

- a. *The proposal is predominantly below the maximum building height, with variations occurring only at the roof level where there is existing excavation below. The proposed FSR also exceeds the development standard. However, in our opinion, the proposal will provide an appropriate correlation between the proposed attached dual occupancy and local developments.*
- b. *Additionally there are numerous examples of recent developments exceeding FSR. (Refer to table 2 of this report)*
- c. *The additional FSR will not result in substantial bulk as it is within the building height limit and recessed below a flat roof. This provides an articulated two-storey built form above basement, which harmonises with the area's character, especially on Military Road's eastern side. The proposal offers two dwellings through an attached dual occupancy, which is consistent with the local developments. The proposed GFA is compatible with the surrounding developments' bulk and scale, including many existing and recently approved attached dual occupancies. The FSR exceedance will not be easily discernible from the public domain and will not impact neighbours' amenity.*

(ii) *The proposal meets objective (c) of the development standard as the:*

- a. *The site is in the R2 zone and, the locality is characterised by a mix of older-style and contemporary one to three-storey detached dwellings and attached dual occupancies. As the proposed floor space is below the maximum building height in a two-storey building above basement, the FSR variation will appear compatible within the streetscape.*
- b. *The additional floor space will not be readily discernible from the streets or neighbouring sites. This is because the sympathetic design scheme accommodates floor space within the building height limit, in the form of a two-storey attached dual occupancy with basement and a flat roof, which resembles a single dwelling.*
- c. *The variation appears consistent with the locality's desired height, bulk and eclectic character. Furthermore, the proposal is substantially below the northern neighbour's existing maximum RL. Accordingly, the proposal's size and scale is compatible with the area's desired future character.*

(iii) *The proposal meets objective (d) of the development standard as the:*

- a. *The proposal has been carefully designed to maintain neighbours' amenity. The additional floor space is unlikely to contribute significantly to the building's perceived scale due to the articulations below the flat roof.*



- b. *Privacy is maintained as all side windows will be either screened or translucent. The additional floor area is also unlikely to generate significant shadows. In fact, regardless of the FSR variation, the shadow diagrams indicate the development will not affect the existing solar access to any private open space or windows from 8am to 4pm due to the site's orientation at the intersection's north-eastern corner, more than compliant with Council's requirement.*
  - c. *Harbour and City views appear to be available to the west for some dwellings. However, the adjoining properties to the east of No. 131 Military Road do not seem to have significant existing views or rely on the subject site for those views. Nonetheless, the additional floor space within the maximum building height and predominant front building lines along both Military and Dover Roads is expected to maintain any existing view corridor. Hence, the proposal facilitates equitable view sharing.*
  - d. *Accordingly, despite the FSR exceedance, the proposal will maintain neighbours' amenity and appear compatible within the streetscape. The extent of variation is reasonable in this instance as it will not be easily discernible from the neighbouring properties or public domain. The proposal locates all floor space below the maximum building height, and the attached dual occupancy is consistent with the local developments' scale, context and character. Full compliance would be likely to inhibit the provision of a sympathetic dual occupancy to increase the local housing stock.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The contemporary attached dual occupancy provides upgraded living space; positively contributes to the local housing stock and character; and is of a similar scale to both the existing and desired future developments in the area. The proposal maintains the appearance and character of a two-storey 'single dwelling' above basement with a flat roof when viewed from both Military and Dover Roads.*
  - (ii) *There are numerous examples of recent new developments in the vicinity which have been approved with building height non-compliances, including, inter alia, Nos. 58, 62, 105 and 110 Military Road, No. 7 Portland Street, and No. 54 Wallangra Road, Dover Heights. These DAs for new dwellings, including many attached dual occupancies, had a height breach which was supported by Council staff and the Panel on similar arguments as those made in our submission (being compatible with surrounding development with no significant effects on neighbours).*
  - (iii) *The floor space variation will enhance the site's appeal with a contemporary attached dual occupancy that will maintain the relationship with the surrounding developments. Furthermore, the development will positively address the street corner by accommodating internal living space below the building height limit and behind the predominant front building lines.*
  - (iv) *The variation enables reasonable redevelopment of a site currently comprising an older dwelling lacking in resident amenity. The additional FSR additional area will not significantly affect the 'single dwelling appearance' of the attached dual occupancy and can therefore be considered acceptable. The proposed FSR allows for two dwellings with a*

*high level of amenity and contemporary living space for future residents. The additional FSR is therefore considered appropriate in this situation.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard noting that despite the numerical non-compliance, the proposal will deliver high-amenity dual occupancy development of a scale that is compatible with the proportions of neighbouring developments, maintaining sufficient amenity, and an appropriate relation between height and density.

Is the development in the public interest?

The objectives of the FSR development standard are:

- (a) *to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*

- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

Objective (a) is not relevant to the proposal as the subject site is not contained within the Bondi Junction Centre.

Notwithstanding the FSR non-compliance, the proposed development achieves objectives (b), (c) and (d) of clause 4.4 for the following reasons:

- As outlined above, despite the minor variation to the height development standard from the glass balustrading from the roof terrace, the proposal is compatible with the streetscape on the eastern side of Military Road, presenting as two to three storeys to the street. As viewed from Military Road the proposal complies with the height development standard and the setback controls under the Waverley Development Control Plan 2012 (WDCP) and is therefore consistent with the bulk and scale of the streetscape. It is noted that the proposed ridge level is lower in height than the adjoining dwelling at 133 Military Road by 2.46m (top of ridge to neighbour against top of parapet of subject site).
- The proposal is compatible with the streetscape and desired future character of the locality. The proposed dual occupancies present as two integrated dwellings to the street. The wide and low presentation of the dwellings and modulation using vertical and horizontal elements, reflects contemporary development in the vicinity of the site. The proposal will not visually dominate the street.
- The proposal will not unreasonably impact on the environmental amenity of adjoining dwellings. As outlined above and discussed in detail below, the proposal will not unreasonably impact on iconic views enjoyed by neighbouring properties to the east, specifically 110 Dover Road and 33-37 Napier Street. The development has been amended to ensure the parapet complies with the height, with only the glass balustrading from the roof terrace, the only element exceeding the height standard.
- The proposal does not result in unreasonable shadowing impacts. With the site being on the corner of Military Road and Dover Road and being located to the northern side of Dover Road, the majority of the additional shadowing falls on the public domain.

The objectives of the R2 – Low Density Residential zone are:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is consistent with the zone objectives in that it provides two dwellings, in a part two, part three storey building, contributing to the low-density residential environment. The remaining objective is not relevant to this application.

### Conclusion

For the reasons provided above, the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by

cl 4.6 of the WLEP and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 zone.

#### **Clause 4.6 Exceptions to Development Standards - Height**

The application seeks to vary the height of buildings development standard in Clause 4.3 of the WLEP.

The site is subject to a maximum height control of 8.5m. The proposed development has a height of 9.18m, exceeding the standard by 0.68m equating to an 8% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the WLEP seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

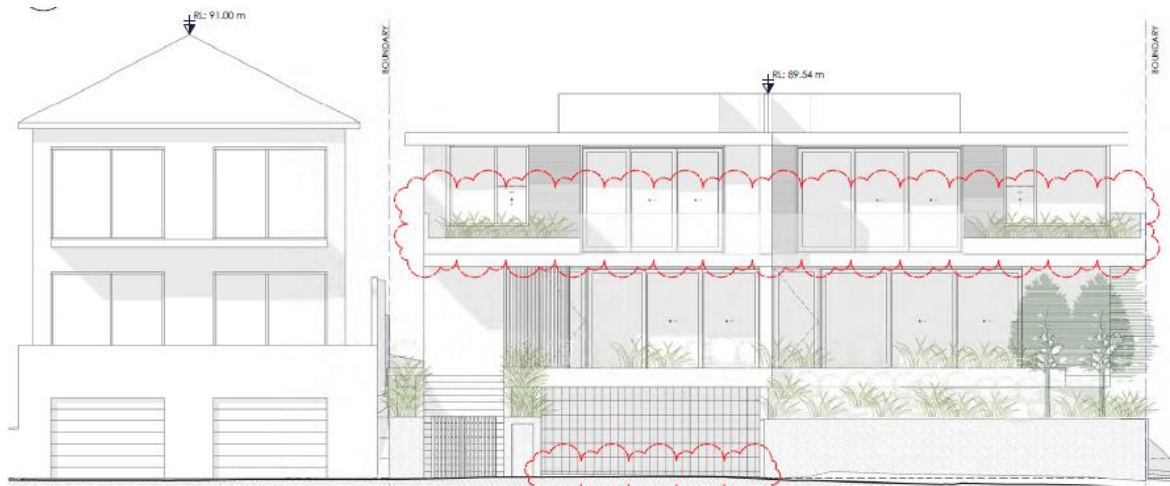
#### Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposal meets objective (a) of the development standard as the:*
    - a. *The site does not adjoin any dwelling to the immediate south or west. The proposal's only additional shadow is to Military and Dover Roads. However, a compliant envelope under the LEP and DCP would have a similar impact.*
    - b. *Regardless of the height exceedance, the shadow diagrams indicate the proposal is consistent with Council's requirements for three hours' sunlight to 50% of adjoining properties' principal private open spaces. In fact, there will be no additional shadow to any neighbouring private open space or windows from 8am to 4pm due to the site's orientation at the north-eastern corner of an intersection. The development is therefore more than compliant with the WDCP requirement for solar access.*
    - c. *Harbour and City views to the west are available in the locality. However, the adjoining dwellings to the east either do not appear to have significant views or do not seem to rely on No. 131 Military Road for those views. The flat roof is below the maximum height. In fact, an entirely compliant height is likely to have a greater view impact. Accordingly, the proposal will facilitate equitable view sharing in the locality.*
    - d. *Privacy will also be maintained, as no window is proposed at the area of the building height exceedance, which comprises part of the non-trafficable roof and a portion of a roof terrace facing Military and Dover Roads.*
    - e. *The contemporary attached dual occupancy resembling a single house will subtly increase local building stock on a corner site. Requiring compliance with the height standard on the sloping terrain constrained by the existing basement excavation*

would necessitate setting back the building further from the predominant building line along both street frontages. While pushing the building towards the north-east would technically achieve numerical compliance with the height standard, it is likely to result in additional excavation or a visually bulkier building at a higher elevation. This scenario would have greater amenity impact on the neighbours to the north and east.

- (ii) *The proposal meets objective (d) of the development standard as the:*
- a. *The site is in an R2 Low Density Residential zone. As addressed in the SEE, the locality is characterised by a mix of one to three-storey dwelling houses and attached dual occupancies. Older brick dwellings are being replaced by rendered flat-roof buildings as part of the emerging contemporary character.*
  - b. *The attached dual occupancy will present as two storeys above basement and resemble a single dwelling. This is consistent with the height, bulk and scale of the existing and recently approved local residential developments. Due to the excavated terrain, the variation occurs over the south-western part of the flat roof and glass balustrade and a small south-eastern corner of the roof, which will unlikely contribute to additional bulk and scale. In fact, the building is significantly below the height limit to the north when viewed from Military Road and neighbouring properties, offsetting the area of non-compliance.*
  - c. *The proposal provides a visual benefit by replacing an ageing dwelling with a high-quality, contemporary dual occupancy. This will enhance the site's street presentation, positively contribute to the locality's emerging character and provide appropriate interfaces with the public domain and adjoining dwellings. A wide variety of materials such as sandstone, off form concrete, rendering and louvres as well as substantial, compliant landscaping on the site and building will create visual interest and contribute to the street corner's physical definition.*
  - d. *The proposed built form sympathetically responds to the adjacent residential developments' character. There are numerous examples of recent new developments in the vicinity which have been approved with building height non-compliances, including, inter alia, Nos. 58, 62, 105 and 282 Military Road, No. 7 Portland Street, and No. 75 Hardy Street, Dover Heights. These DAs for new dwellings, including many attached dual occupancies, had a height breach which was supported by Council staff and the Panel on similar arguments as those made in our submission (being compatible with surrounding development with no significant effects on neighbours).*
  - e. *The height exceedance will not noticeably add to the building's bulk and scale, as the majority of the building is within the height limit. In fact, the new roof level's RL (88.54 AHD) is within the 8.5m height limit, 0.76m below the existing roof ridge on the subject site (89.3 AHD) and 2.46m below that of the northern neighbour (91.0 AHD). The recessed glass balustrade will also remain below the northern neighbour's existing roof ridge (refer to **figure 4** of the Clause 4.6).*



**Figure 4.** Height of the proposal is significantly below the neighbouring dwellings ridge height as demonstrated on the Military Road Elevation (Source: Pinnacle, 2021)

- f. Accordingly, despite the height exceedance, the proposal will maintain neighbours' amenity and complement the streetscape. The extent of variation is appropriate in this instance as the proposal provides a well-articulated dual occupancy that is compatible with the local developments' height, context and character. Full compliance is likely to result in increased visual bulk at a higher elevation.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposal is permissible in the R2 Low Density Residential zone, is consistent with the zone objectives and satisfies an 'unreasonable and unnecessary' test established by the court in *Wehbe*. The non-compliance is due to the existing basement excavation. Compliance with the standard would result in an awkward-looking building that would detract from the streetscape.
  - (ii) The proposed areas of exceedance will not be easily discernible from the public or private domain as they relate to part of the flat roof and glass balustrade, both of which are predominantly below the height limit. To achieve a fully compliant building height would require pushing the bulk further towards the north-east, resulting in either substantial excavation or a more elevated building. This would not serve benefit to the neighbours and would have additional visual impact. The new building's proposed location is a preferred design solution.
  - (iii) Our assessment has demonstrated the proposal will maintain neighbours' privacy, solar access and views. Those aspects have been considered in detailed in the SEE. As the height variation is an integral part of the architecturally designed dual occupancy which improves future occupants' amenity, we consider the proposal is in the public interest.
  - (iv) The proposal subtly increased building stock in a low-density residential environment and is of a similar scale to the area's existing and desired high-quality developments. The proposal also achieves compliant open space and landscaping, harmonising with the area's eclectic character. The articulated elevations to Military and Dover Roads will enhance the site's relationship with the surrounding developments and public domain. The incorporation of a variety of materials and more than required landscaping on the site and building will provide further visual and amenity benefits.

### Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard noting that the non-compliance results from the existing basement excavation and that strict compliance with the development standard would require pushing the bulk of the building to the north east of the lot, resulting in either substantial excavation or a more elevated building. This would not serve benefit to the neighbours and would have additional visual impact.

### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out including;

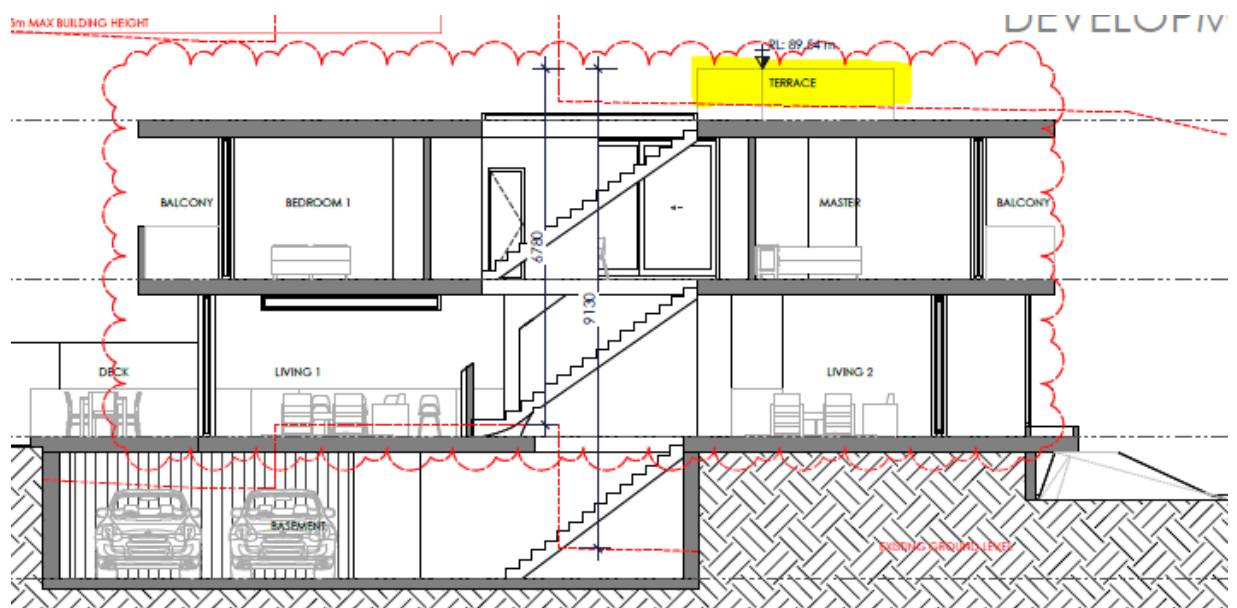
The objectives of the height of buildings development standard are as follows:

- (a) *to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*

- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

Objectives of (b) and (c) are not relevant to the proposal as the subject site is not contained within the Bondi Junction Centre.

The height non-compliance relates to a portion of the balustrading. The extent of the non-compliance varies, with a maximum non-compliance of 0.68m, as shown in the section excerpt below (Figure 5).



**Figure 5:** Extent of height non-compliance (yellow highlight) at Proposed Section A (Source: Pinnacle, 2021)

The non-compliance is attributable from the excavation from the existing garage.

Notwithstanding the height non-compliance, the proposed development:

- Is compatible with the streetscape on the eastern side of Military Road, where dwellings present to the street as three storeys in height, from the garage being at lower ground level. As viewed from Military Road and Dover Road the proposal complies with the HOB development standard, with a height of 8.5m and fits in with the adjoining dwellings to positively contribute to the definition of the streetscape. It is noted that the proposed ridge level is lower in height than the adjoining dwelling at 133 Military Road by 2.46m (top of ridge to neighbour against top of parapet of subject site).
- Is compatible with the existing and desired bulk and scale of the streetscape. Whilst the proposal seeks a variation to the maximum FSR development standard (as discussed above), the proposal generally complies with setbacks controls under the WDCP and is smaller in scale and bulk than the adjoining dwelling to the north.
- The proposal will not unreasonably impact on the environmental amenity of adjoining dwellings. As outlined above and discussed in detail below, the proposal will not unreasonably



impact on iconic views enjoyed by neighbouring properties to the east, specifically 110 Dover Road and 33-37 Napier Street. The development has been amended to ensure the parapet complies with the height, with only the glass balustrading from the roof terrace, the only element exceeding height.

- The proposal does not result in unreasonable shadowing impacts. With the site being on the corner of Military Road and Dover Road and being located to the northern side of Dover Road, the majority of the additional shadowing falls on the public domain.

Given the above analysis, it is considered that the proposal is consistent with the streetscape, the desired future character of the area and objectives (a) and (d) of the height of buildings development standard.

The objectives of the R2 – Low Density Residential zone are:

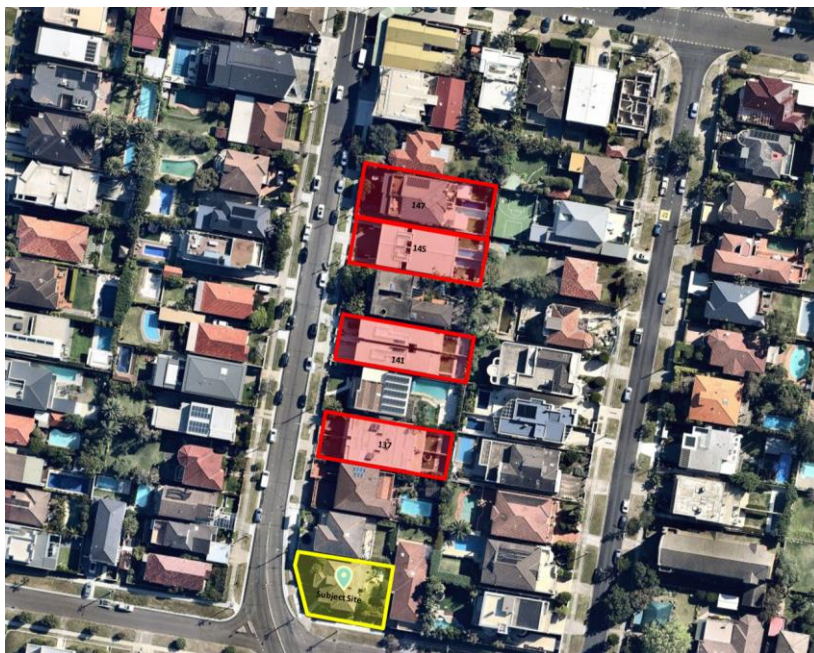
- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is consistent with the zone objectives in that it provides two dwellings, in a part two, part three storey building, contributing to the low-density residential environment. The remaining objective is not relevant to this application.

### Conclusion

For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the WLEP and the proposed development would be in the public interest because it is consistent with the objectives of height of building development standard and the R2 zone.

### **Streetscape Analysis**



**Figure 6:** Analysis of FSR and height to surrounding dual-occupancies

**Table 2: Analysis of FSR and height to surrounding dual-occupancies**

Address	DA Number	Approval Date	Description	FSR/Height Exceedance
137 Military Road	DA-24/2013	27/03/2013	Demolition of dwelling, construction of dual occupancy with basement parking and strata subdivision	<u>FSR</u> Control: 0.5:1 Proposed: 0.72:1 Exceedance: 144.07m <sup>2</sup> or 44.3%
				<u>Height</u> Control: 7.5m Proposed: 8.9m Exceedance: 1.4m or 18.7%
141 Military Road	DA-149/2017	19/06/2017	Demolition of existing structures and construction of new dual occupancy with strata subdivision	<u>FSR</u> Control: 0.5:1 Proposed: 0.699:1 Exceedance: 129.7m <sup>2</sup> or 39.9%
				<u>Height</u> Control: 8.5m Proposed: 8.1m Exceedance: Nil (Although plans show balustrading exceeds the height line)
145 Military Road	DA-321/2014/A	05/05/2016	Modification to reconfigure layout, remove internal courtyards, internal changes, modify balustrades to front elevation and new roof terraces for approved dual occupancy development	<u>FSR</u> Control: 0.5:1 Proposed: 0.697:1 Exceedance: 70.73m <sup>2</sup> or 21.7%
				<u>Height</u> Control: 8.5m Proposed: 8.45m Exceedance: Nil
147 Military Road	DA-167/2012	23/08/2012	Demolition of dwelling and Construct new dual occupancy with garage , swimming pool and strata subdivision	<u>FSR</u> Control: 0.5:1 Proposed: 0.66:1 Exceedance: 83.7m <sup>2</sup> or 23.7%
				<u>Height</u> Control: 8.5m Proposed: 8.1m Exceedance: Nil

**2.1.4 WDCP - Amendment No. 8 (Effective 1 August 2020)**

The relevant matters to be considered under the WDCP for the proposed development are outlined below:

**Table 3: WDCP – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes. Conditions recommended.	<p>A Site Waste &amp; Recycling Management plan has been submitted with the application to address waste disposal during construction. Conditions of consent are recommended regarding ongoing waste on site.</p> <p>The waste and recycling storage area is located in an area convenient for users of the site.</p>
2. Ecologically sustainable Development	Yes	A BASIX and NATHERS Certificate is submitted with the application, which is acceptable.
3. Landscaping and Biodiversity	Condition recommended	<p>The originally submitted landscaping plan has been reviewed and is acceptable and is cohesive with the site and streetscape.</p> <p>An updated landscape plan has not been submitted to reflect the amended design; a suitable condition is recommended.</p>
5. Vegetation Preservation	Condition recommended	<p>All existing vegetation on site will be removed.</p> <p>Council’s Tree Officer has reviewed the application and is supportive of the proposal, including the originally submitted landscape plan.</p>
6. Stormwater	Condition recommended	The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. This matter is recommended to be addressed as a condition of consent.
8. Transport 8.1 Streetscape 8.2 On-Site Parking 8.2.1 Vehicle Access 8.2.2 Parking Rates	Yes - Acceptable on merit. Yes	<p>Attached garages located below dwellings are common in the locality, which is demonstrated on the eastern side of Military Road.</p> <p>The site is located in parking zone 2.</p> <p>Although two driveways are proposed, the proposal is supported by the Development Assessment unit given each driveway is accessed from a different street. This results in a better arrangement for basement parking and provides a suitable distance from the street corner, with each driveway crossover located more than 10m from the intersection of Military and Dover Roads.</p> <p>Each dwelling will consist of three bedrooms and is therefore permitted two off-street parking spaces.</p>

Development Control	Compliance	Comment
12. Design Excellence	Yes	The application is considered to achieve design excellence. The development has been well designed to reflect the scale of other dwellings in the locality. Additionally, the development will not result in significant environmental impacts in terms of view loss, overshadowing or a reduction in visual privacy. Appropriate materials and finishes have been utilised to create a contemporary building that respects the surrounding streetscape.
13. Subdivision	N/A	This does not apply to Strata subdivision.
14. Excavation	Yes	Excavation is set more than 0.9m from side boundaries.

**Table 1: WDCP – Part C2 Low Density Residential Development Compliance Table**


The proposal is defined as a “Dual Occupancy” in the WLEP.

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>• Appropriate scale</li> <li>• Does not detract from amenity of other dwellings or view corridors</li> <li>• ESD has been considered</li> <li>• High design standard</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the WDCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>• Maximum wall height of 7.5m</li> </ul>	Yes	The proposal will have a maximum continuous wall height of 6.6m.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>• Predominant front building line</li> <li>• Predominant rear building line at each floor level</li> </ul>	Yes  Yes  Yes	<u>Ground Floor Front Setback:</u>  The setback is acceptable, the front external wall does not extend past the front external wall of 133 Military Road.  The balcony does not extend past the balcony of 133 Military Road (located above the neighbours garage).

Development Control	Compliance	Comment
	<p>Yes</p> <p>Yes</p> <p>Condition recommended</p>	<p><u>Ground Floor Rear Setback:</u></p> <p>The setback is acceptable. The rear external wall of Dwelling 1 is in line with the rear building line of 133 Military Road. The solid wall that extends the length of the BBQ is supported as it does not extend past the neighbours rear pergola and it will not result in additional overshadowing to neighbours private open space, as this is located to the north of the subject site.</p> <p>The reduced rear building line to Dwelling 2 (stepped) is acceptable, given it will not be located near neighbouring private open space, resulting in minimal solar access impacts to neighbouring dwellings.</p> <p><u>First Floor Front Setback:</u></p> <p>The setback is acceptable, the front external wall does not extend past the front external wall of 133 Military Road.</p> <p><u>First Floor Rear Setback:</u></p> <p>The setback is acceptable. The rear external wall of Dwelling 1 is in line with the rear building line of 133 Military Road. Although the rear balcony extends past the neighbouring dwellings rear building line it is supported as it contains a:</p> <ul style="list-style-type: none"> <li>• Compliant depth;</li> <li>• No shadowing impacts; and</li> <li>• Privacy measures are incorporated.</li> </ul> <p>The reduced rear building line to Dwelling 2 (stepped) is acceptable as it results in minimal solar access and visual privacy impacts to neighbouring dwellings.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> <li>• Minimum of 0.9m</li> </ul>	<p>Yes</p>	<p>All side setbacks are setback more than 0.9m.</p>
<p><b>2.3 Streetscape and visual impact</b></p>		
<ul style="list-style-type: none"> <li>• New development to be compatible with streetscape context</li> <li>• Significant landscaping to be maintained.</li> </ul>	<p>Yes</p>	<p>Contemporary dwellings are common in the locality, with many examples of contemporary dual-occupancies to the eastern side of Military Road (as detailed in <b>Table 2</b> of this report).</p>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	Yes	<p>an area of 12.2m<sup>2</sup>. This is to be reduced in size to a maximum of 10m<sup>2</sup>. A suitable condition is recommended.</p> <p><u>Balconies – Dwelling 2</u> The front balcony of Dwelling 2 accessed from the master bedroom will have a depth of 1.3m and an area of 6.6m<sup>2</sup>.</p>
	No	<p>The rear balcony of Dwelling 2 accessed from the two bedrooms, will have a depth of 1.5m and an area of 15.8m<sup>2</sup>.</p>
	Acceptable on merit.	<p>The side balcony of Dwelling 2 accessed from the study will have a depth of 1.9m and an area of 5.7m<sup>2</sup>. This is acceptable as it overlooks the road and not neighbouring private open space.</p>
	Condition recommended	<p>The rear first floor balconies of Dwelling 1 and 2 are exceed the control of 10m<sup>2</sup>. The balconies will result in overlooking to neighbouring private open space and a suitable condition is recommended requiring their reduction to a maximum of 10m<sup>2</sup>. The reduction of these balconies to a compliant area will assist in reducing the useability of these balconies to be used more infrequently and therefore increasing visual and acoustic privacy. Additionally, a condition is recommended requiring a minimum 1.6m high privacy screen (from the Finished Floor Level) to run 1.5m in length along the eastern elevation of the edge of this balcony, to protect the POS of Dwelling 1.</p>
	Yes	<p><u>Roof Terrace</u></p> <p>The roof terraces are supported as:</p> <ul style="list-style-type: none"> <li>There is a predominance of roof terraces in the locality, as identified at 141, 145 and 147 Military Road;</li> <li>They will not result in significant visual and acoustic privacy impacts, as they are appropriately setback from the roofs edge and are of a compliant area to reduce the amount of people who can use this space (not exceeding 15m<sup>2</sup>);</li> <li>They are not an extension of private open space; and</li> </ul>

Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>Access is within the building envelope, i.e. there is no lift overrun or access hood.</li> </ul>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June</li> </ul>	Yes	<p>Shadowing is acceptable and compliant with the WDCP.</p> <p>The majority of the additional overshadowing falls on the public domain and will not impact neighbours private open space or living areas.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	N/A	<p>No submissions have been received regarding view loss. Therefore, it is anticipated that this is not an issue.</p> <p>Regardless, the majority of the building envelope sits within a compliant height, with the exception of the glass balustrading to the roof terrace.</p> <p>A photo of the view from 35 Napier Street, Dover Heights can be accessed on Realestate.com.au. This demonstrates that views from dwellings that front Napier Street are accessed above the ridge of 133 Military Road (RL 91.00). With the top of the balustrading being RL 89.54, 1.46m below the ridge of 133 Military Road, it is not anticipated that view loss will occur.</p>  <p><b>Figure 7.</b> View from 35 Napier Street, Dover Heights (Source: Realestate.com.au)</p>
<b>2.8 Car parking</b>		



Development Control	Compliance	Comment
<p>2.8 Parking</p> <ul style="list-style-type: none"> <li>• Parking only allowed where site conditions permit</li> <li>• Designed to complement the building and streetscape</li> <li>• Car parking structures to be behind the front building line</li> <li>• Driveways are to be located to minimise the loss of on street parking</li> <li>• 2 spaces for 3 or more bedrooms</li> <li>• 5.4m x 2.4m per vehicle</li> <li>• Maximum of one per property</li> <li>• Maximum width of 3m at the gutter (excluding splay)</li> <li>• Crossings not permitted where 2 on street spaces are lost</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Acceptable</p> <p>Yes</p> <p>Yes</p> <p>Conditions recommended.</p>	<p>Car parking is well integrated within the overall development. Appropriately located under the dwellings, as is the precedence set by many contemporary dwellings on the eastern side of Military Road.</p> <p>Parking rates are compliant, as discussed earlier within this report.</p> <p>Two driveways are supported by the Development Assessment unit as they are accessed from differing streets and result in a better design to the basement parking area. The two driveways also allow for a safer distance from the intersection. Council's Traffic Team recommended that the driveways be reduced to one single crossover as encouraged by WDCP to assist in protecting on-street parking.</p> <p>Each garage is of a compliant size to accommodate two vehicles.</p> <p>Each driveway crossover is located more than 10m from the intersection of Military Road and Dover Road.</p> <p>A condition is recommended that the driveway crossovers not exceed 3m in width to not impact on-street parking.</p>
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>• Overall open space: 40% of site area</li> <li>• Overall landscaped area: 15% of site area</li> <li>• Minimum area of 25m<sup>2</sup> for private open space</li> <li>• Front open space: 50% of front building setback area</li> <li>• Front landscaped area: 50% of front open space provided</li> <li>• Outdoor clothes drying area to be provided</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p>	<p>57.5%</p> <p>23.6%</p> <p>Both lots exceed 25m<sup>2</sup></p> <p>83.4%</p> <p>48.1% Acceptable due to unique topography design.</p> <p>Appropriate space is provided for clothes drying.</p>
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>• Located in the rear of property</li> </ul>	<p>Yes</p>	<p>Each swimming pool will be located to the rear of each dwelling.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	Yes	Pool equipment is located within the plant room in the basement.
<b>2.14 Dual Frontage Development</b>		
2.14.1 - General Controls <ul style="list-style-type: none"> <li>Primary and secondary frontage to be defined</li> <li>Appropriate forms to be provided to each street</li> </ul>	Yes	The development fronts Military and Dover Roads. The development is considered to have appropriate frontages to both streets.
<b>2.15 Dual Occupancy Development</b>		
<ul style="list-style-type: none"> <li>Min 450m<sup>2</sup> attached dwellings</li> <li>Min 600m<sup>2</sup> detached dwellings</li> </ul>	Yes	The lot has an area of 524.9m <sup>2</sup> , this is sufficient to support an attached dual occupancy.

## 2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3 Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

## 2.4 Any Submissions

The application was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Two submissions were received against the original notified plans. The amended plans were re-notified for 14 days. No submissions were received; however, one of the original objectors requested additional time. The original objection is discussed below.

**Table 5: Summary of property addresses that lodged a submission**

Property
133 Military Road, DOVER HEIGHTS
110 Dover Road, DOVER HEIGHTS

### Issue: Visual privacy impacts from dwellings 1 windows and balconies

**Response:** Appropriate privacy measures have now been incorporated into the design to assist in increasing visual privacy. This includes, recommending the rear balconies be reduced in size and providing translucent glazing to the ensuite window of dwelling 1.

**Issue: Roof terrace**

**Response:** Roof terraces have been reduced to an appropriate size and have been discussed above

**Issue: Front and Rear setbacks**

**Response:** Front and rear setbacks have been amended to an acceptable location, as discussed above.

**Issue: Swimming Pool Motors**

**Response:** The pool equipment is located within the basements plant room. The location of this will not result in acoustic privacy impacts.

**Issue: Insurance – Details of Insurance company, policy number**

**Response:** This is something that is not part of the DA process. The objector is to discuss this with the Private Certifying Authority.

**Issue: Damage to neighbours house to be fixed ASAP**

**Response:** This is something that is not part of the DA process. The objector is to discuss this with the Private Certifying Authority. A condition requiring a dilapidation report is recommended.

**Issue: Tree roots across boundary**

**Response:** The originally submitted landscape plan does not indicate large trees proposed to be planted close to the boundary.

**2.5 Public Interest**

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

**3. REFERRALS**

**3.1 Traffic and Development (Infrastructure Services)**

An internal referral was sought from Council's Traffic Engineers who supported the application subject to recommended conditions of consent and the requirement for a single crossover and reduction in crossover width.

This issue has been discussed above and the Development Assessment unit is supportive of the proposed two crossovers.

**3.2 Stormwater (Infrastructure Services)**

An internal referral was sought from Council's Stormwater Engineers who supported the application subject to recommended conditions of consent.

**3.3 Tree Management Officer (Open Space and Sports fields Management)**

An internal referral was sought from Council's Tree Officer who did not object to the proposal.

### 3.4 GIS

An internal referral was sought from Council's GIS Officer who supported the application subject to recommended conditions of consent.

## 4. SUMMARY

The application is for the demolition of the existing dwelling and construction of a two-storey attached dual occupancy with basement parking, swimming pools, landscape works, roof terraces and associated Strata subdivision.

The development exceeds both the height and FSR development standards prescribed by the WLEP; however, well founded clause 4.6 variations have been submitted with the application. These clause 4.6 variations are supported by Council.

In regards to FSR, the applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard noting that despite the numerical non-compliance, the proposal will deliver high-amenity dual occupancy development of a scale that is compatible with the proportions of neighbouring developments, maintaining sufficient amenity, and an appropriate relation between height and density.

With regard to the breach in height, it has been demonstrated that the non-compliance results from the existing basement excavation and that strict compliance with the development standard would require pushing the bulk of the building to the north east of the lot, resulting in either substantial excavation or a more elevated building. This would not serve benefit to the neighbours and would have additional visual impact.

Another issue is the proposed two driveway crossovers; generally dual-occupancies are to have a single crossover to the street. However, given this is a corner site the Development Assessment unit support two crossovers as one was accessed from Dover Road, with the other accessed from Military Road. The two crossovers allow for a better layout of the basement parking and provide a safer distance from the corner.

Two submissions were received, which have either been addressed via amended plans, conditions of consent or discussed within this report.

The development will significantly improve this corner lot and the proposed contemporary dwelling will fit in well with the other contemporary dwellings along Military Road.

### DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 27/10/2020 and the DBU determined:

- (a) *The application is acceptable and should be approved, subject to the conditions in Appendix A.*

DBU members: *M Reid, A Rossi, B McNamara, E Finnegan*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

**Report prepared by:**



Joseph Somerville  
**Development Assessment Planner**

**Date:** 15/01/2020

**Reason for referral:**

- 1 Departure from any development standard in an EPI by more than 10%

**Application reviewed and agreed on behalf of  
the Development and Building Unit by:**



Bridget McNamara  
**Manager, Development Assessment  
(North/South)**

**Date:** 21 January 2021

## **APPENDIX A – CONDITIONS OF CONSENT**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by Pinnacle including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA – 2.00 / Rev 3	Demolition Plan	18/12/2020	21/12/2020
DA – 3.00 / Rev 3	Site Plan	18/12/2020	21/12/2020
DA – 3.30 / Rev 3	Subdivision Plan	18/12/2020	21/12/2020
DA – 4.00 / Rev 3	Basement Plan	18/12/2020	21/12/2020
DA – 4.10 / Rev 3	Ground Floor Plan	18/12/2020	21/12/2020
DA – 4.20 / Rev 3	First Floor Plan	18/12/2020	21/12/2020
DA – 4.30 / Rev 3	Roof Plan	18/12/2020	21/12/2020
DA – 5.00 / Rev 3	Sections	18/12/2020	21/12/2020
DA – 5.10 / Rev 3	Driveway Plans	18/12/2020	21/12/2020
DA – 5.20 / Rev 3	Military Road Driveway	18/12/2020	21/12/2020
DA – 5.30 / Rev 3	Dover Road Driveway	18/12/2020	21/12/2020
DA – 6.00 / Rev 3	East and West Elevation	18/12/2020	21/12/2020
DA – 6.10 / Rev 3	North and South Elevation	18/12/2020	21/12/2020
DA – 6.20 / Rev 3	Streetscapes – Dover Road	18/12/2020	21/12/2020
DA – 6.30 / Rev 3	Streetscapes – Military Road	18/12/2020	21/12/2020

(b) BASIX and NatHERs Certificates

(c) Schedule of external finishes and colours received by Council on 21/12/2020

(d) The Waste Management Plan prepared by Auswide Consulting received by Council on 19/08/2020

Except where amended by the following conditions of consent.

#### **2. GENERAL MODIFICATIONS**

The proposal shall be amended as follows:

(a) The first floor rear balconies to Dwellings 1 and 2 are to be reduced in area to not exceed 1.5m in depth and 10m<sup>2</sup> in size.

(b) A 1.6m high privacy screen (from the Balconies Finished Floor Level) is to run 1.5m in length along the eastern elevation of the edge of Dwelling 2 balcony from the shared party wall with Dwelling 1.

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

### **3. LANDSCAPE PLAN**

An updated Landscape Plan to reflect the approved design is to be provided to Council for approval by Council's Tree Officer prior to the issue of any Construction Certificate.

### **4. DRAFT STRATA PLAN**

An updated Draft Strata Plan to reflect the approved design is to be provided to Council for approval the Executive Manager, Development Assessment or delegate prior to the issue of any Construction Certificate.

### **5. USE OF EXISTING SANDSTONE**

The existing sandstone (from the existing fence) is to be salvaged and used for the new fence, with any new sandstone required to be similar in appearance to the existing sandstone.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **6. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### **7. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act, 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

## **CONTRIBUTIONS, FEES & BONDS**

### **8. SECTION 7.12 CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

(a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:

(i) Where the total development cost is less than \$500,000:

**"Waverley Council Cost Summary Report"; or,**

(ii) Where the total development cost is \$500,000 or more:

**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

(i) A development valued at \$100,000 or less will be exempt from the levy.

(ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR

(iii) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## **9. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$33,025.46 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **10. LONG SERVICE LEVY**

A long service levy, as required under Section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **11. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with



Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **CONSTRUCTION MATTERS**

### **12. HOARDING**

To ensure the site is contained during construction, if hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

### **13. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

### **14. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

### **15. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **STORMWATER & FLOODING**

### **16. STORMWATER MANAGEMENT AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted to the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans to include:

- a) OSD Details: The plans shall include On-Site Stormwater Detention (OSD) tank and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign, and catchment plan for each lot. Council's mandatory OSD checklist as set out in page 22 of the Council's Water Management Technical Manual shall be submitted for each lot.
- b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the Stormwater Drainage System.
- c) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to insure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4.00pm Monday to Friday).

## **TRAFFIC MANAGEMENT**

### **17. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **18. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## **WASTE**

### **19. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## **LANDSCAPING & TREES**

### **20. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

## **PRIOR TO ANY WORKS**

### **21. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

## **22. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners on request.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## **DEMOLITION & EXCAVATION**

### **23. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

### **24. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems.

Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

## **25. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014.

## **26. EXCAVATION AND BACKFILLING**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land. The excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

### **27. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays;
- (b) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

### **28. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

### **29. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

### **30. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

### **31. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building

### **32. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

### **TREE PROTECTION AND REMOVAL**

#### **33. TREE PROTECTION**

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

#### **34. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;

- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

#### **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

##### **35. NEW VEHICLE CROSSINGS**

New vehicle crossings are to be provided to access the proposed garages. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

##### **36. EXISTING VEHICLE CROSSING IS TO BE CLOSED**

The existing vehicle crossing is to be closed and all work associated with the closure is to be carried out with the approval of, and in accordance with, the requirements of Council

##### **37. VEHICULAR ACCESS - FINISHED LEVELS**

The finished level at the property boundary on **both** sides of each vehicle crossing is to be **30mm above** the level of the existing concrete footpath

##### **38. VEHICULAR ACCESS – DRIVEWAY**

The driveway/s are to be 3.0 metres wide between the property boundary and the street with 0.45 metre splays at the street as per Council's Standard drawings.

#### **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

##### **39. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

##### **40. SUBDIVISION**

A Subdivision Certificate must be obtained from Council in accordance with the Environmental Planning and Assessment Act, 1979 prior to the registration of the subdivision plans.

#### **41. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **42. CERTIFICATION OF STORMWATER SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice for each lot.

#### **43. ON-SITE STORMWATER DETENTION CERTIFICATION**

The submission of certification by a suitably qualified Civil Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of any Occupation Certificate for each lot.

#### **44. CREATION OF POSTIVE COVENTANT FOR OSD**

A positive covenant shall be created for the On-Site Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Council's Public Domain Engineer prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building for each lot. All associated costs shall be borne by the applicant.

#### **45. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design
- (b) Evidence that the swimming pool/outdoor spa have been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>)
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council
- (d) A copy of the occupation certificate must be submitted to Council

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.



#### **46. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has led to the following allocation of primary address and sub-address numbering for a strata subdivision:

The primary address number and location for the common property strata:

- 131 Military Road

As the redevelopment has sub-address sites the following sub-addressing will apply;

- No. 131A Military Road for the north allotment - proposed Lot 1, Lot 1 shall display both the premise number at pedestrian entry point in Military Road,
- No. 131B Military Road for the south allotment - proposed Lot 2, Lot 2 shall display both the premise number and street location at pedestrian entry point in Dover Road.

The premises number for the properties shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry point for each lot and be clearly visible on the site boundary.

The address number for a sub-address site shall not consist of the primary address number on its own.

Sub-address numbers shall be applied in a logical sequence in the street and within a primary address site shall be unique regardless of the type of the address.

The premises numbers are to be positioned on the site prior to the issue of the Occupation Subdivision Certificate.

Any variation to the above premises numbering requires a new application for a Change of street number and/or address to be lodged with Council.

#### **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

##### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) , in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).

- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council’s Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

## **AD2. SYDNEY WATER REQUIREMENTS**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

## **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

## **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra’s network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra’s infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra’s assets in any way, you are required to contact: Telstra’s Network Integrity Team on Phone Number 1800810443.

**AD5. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD6. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

**AD7. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

**AD8. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

**AD9. SYDNEY WATER CERTIFICATE**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

# AMENDED PLANS



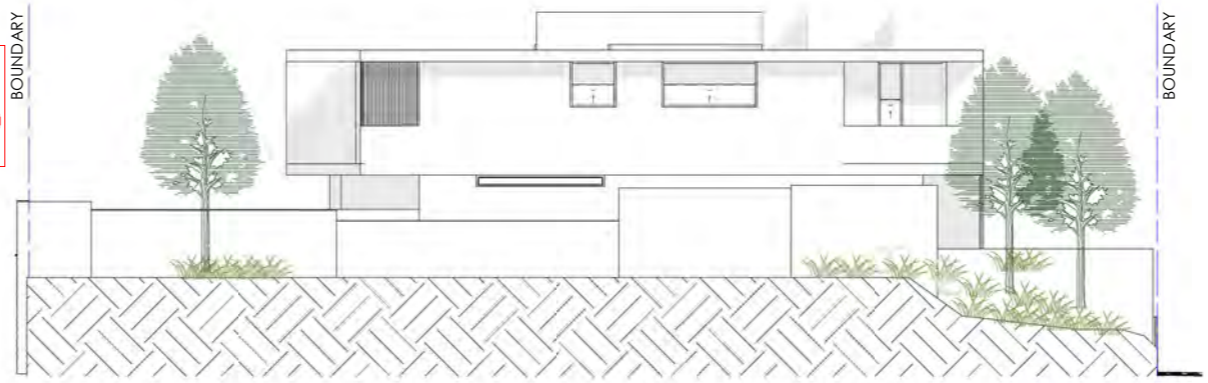
## 01.DA Drawing List

Drawing #	Drawing Name	Rev.
COVERS DA - 00.20	NOTIFICATION PLAN	3
DEMOLITION WORKS DA - 02.00	DEMOLITION PLAN	3
SITE CONTEXT DA - 03.00	SITE PLAN	3
DA - 03.20	SITE ANALYSIS PLAN	3
DA - 03.30	SUBDIVISION PLAN	3
GENERAL ARRANGEMENT DA - 04.00	BASEMENT	3
DA - 04.10	GROUND FLOOR	3
DA - 04.20	FIRST FLOOR	3
DA - 04.30	ROOF	3
GA SECTIONS DA - 05.00	SECTIONS	3
DA - 05.10	DRIVEWAY PLANS	3
DA - 05.20	MILITARY ROAD DRIVEWAY	3
DA - 05.30	DOVER ROAD DRIVEWAY	3
GA ELEVATIONS DA - 06.00	EAST & WEST ELEVATION	3
DA - 06.10	NORTH & SOUTH ELEVATION	3
DA - 06.20	STREETSCAPES - DOVER ROAD	3
DA - 06.30	STREETSCAPES - MILITARY ROAD	3
AREA ANALYSIS DA - 07.00	BUILDING & AREA CALCULATIONS	3
DESIGN INTENT DA - 08.00	DESIGN INTENT	3
DA - 08.10	EXTERNAL FINISHES & MATERIALS	3
SOLAR ANALYSIS DA - 09.00	WINTER SOLSTICE - 21 JUNE	3
DA - 09.10	WINTER SOLSTICE - 21 JUNE	3

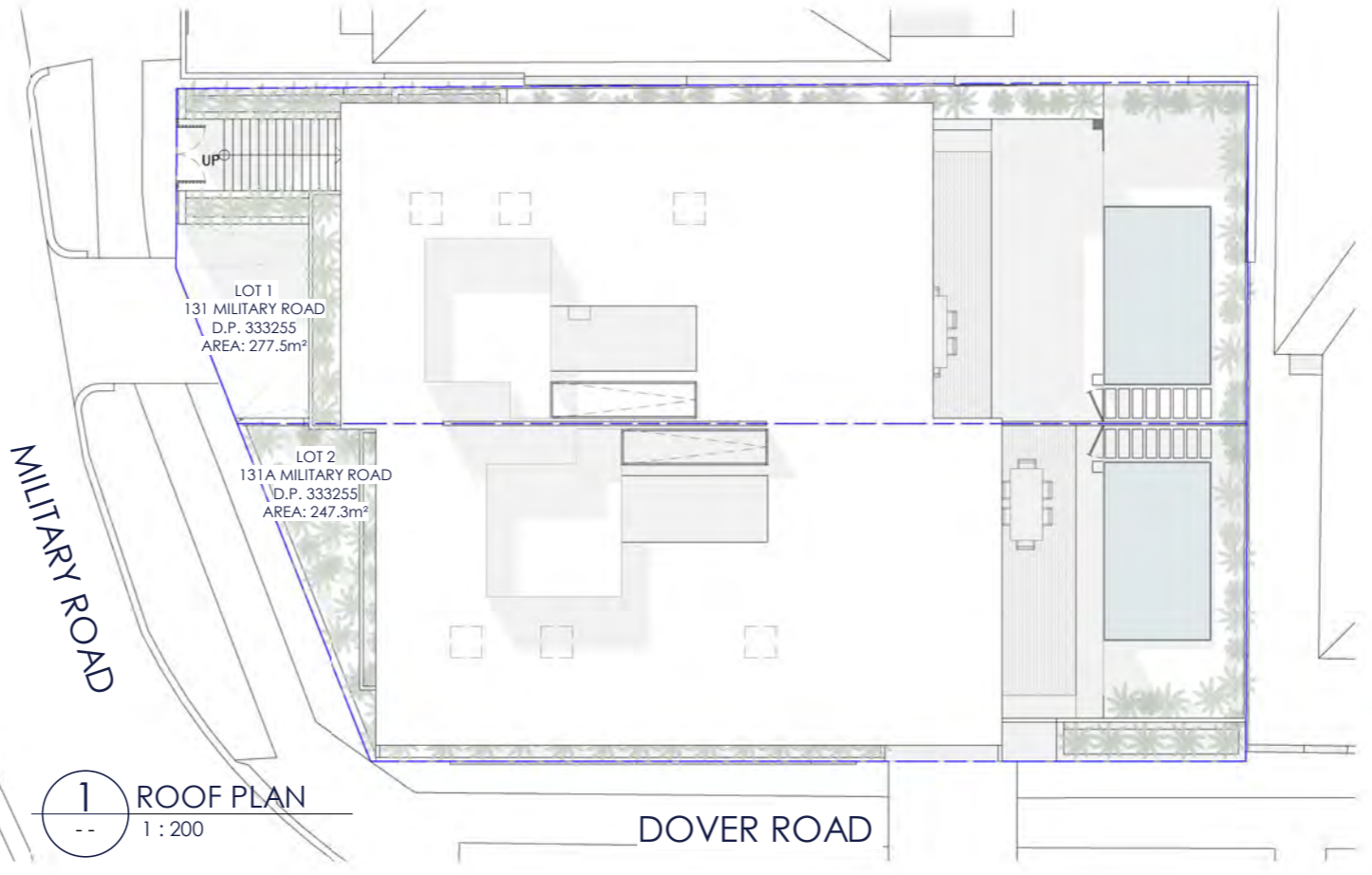
131 Military Road, Dover Heights  
DEVELOPMENT APPLICATION  
DECEMBER 2020

**AMENDED PLANS**

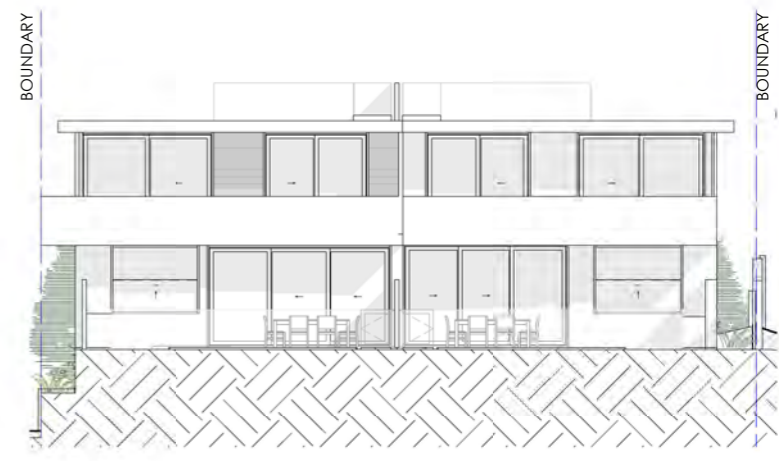
**5** NORTH ELEVATION  
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**2** WEST ELEVATION  
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**1** ROOF PLAN  
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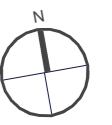


**3** EAST ELEVATION  
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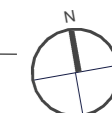
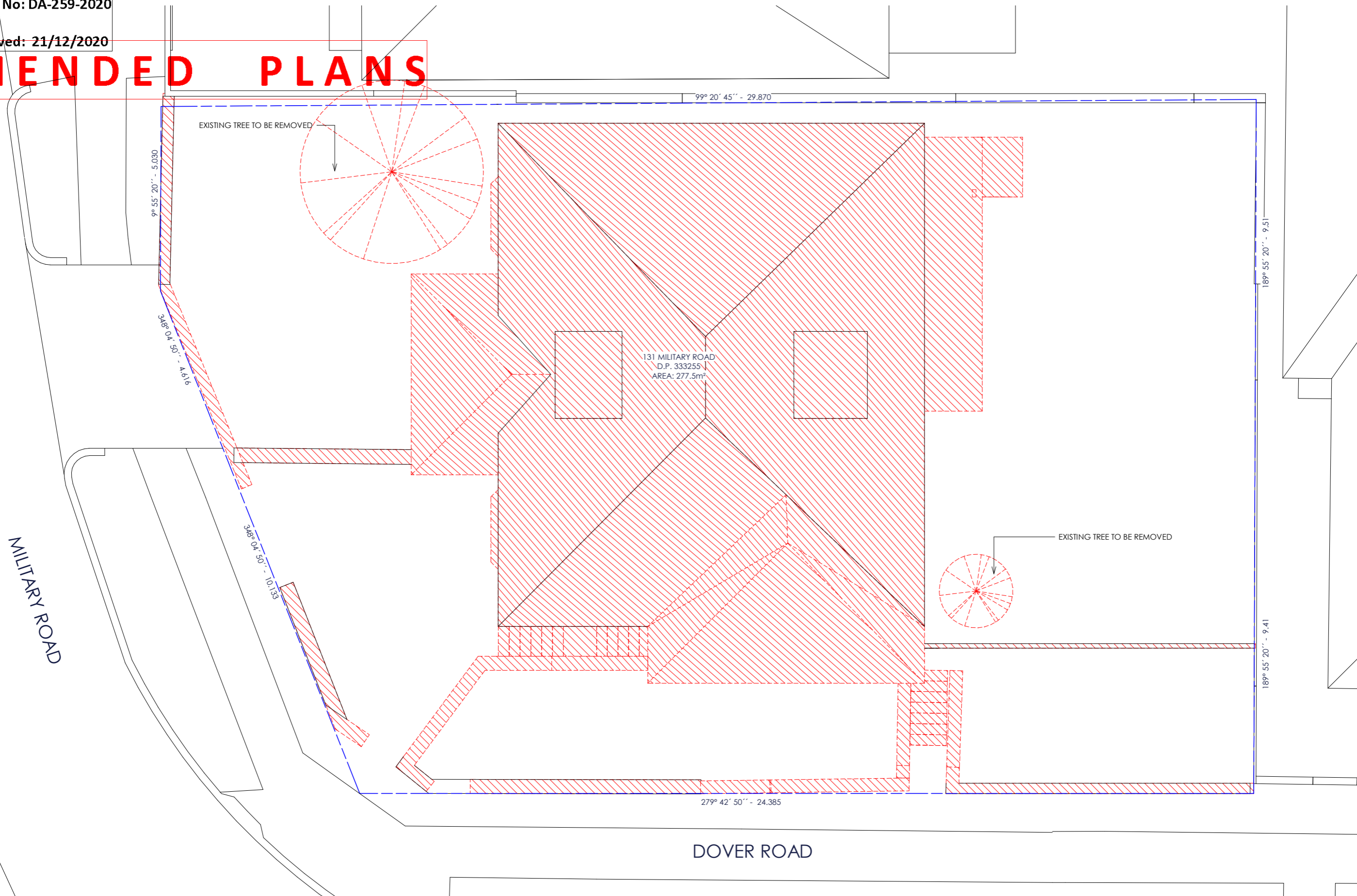
**4** SOUTH ELEVATION  
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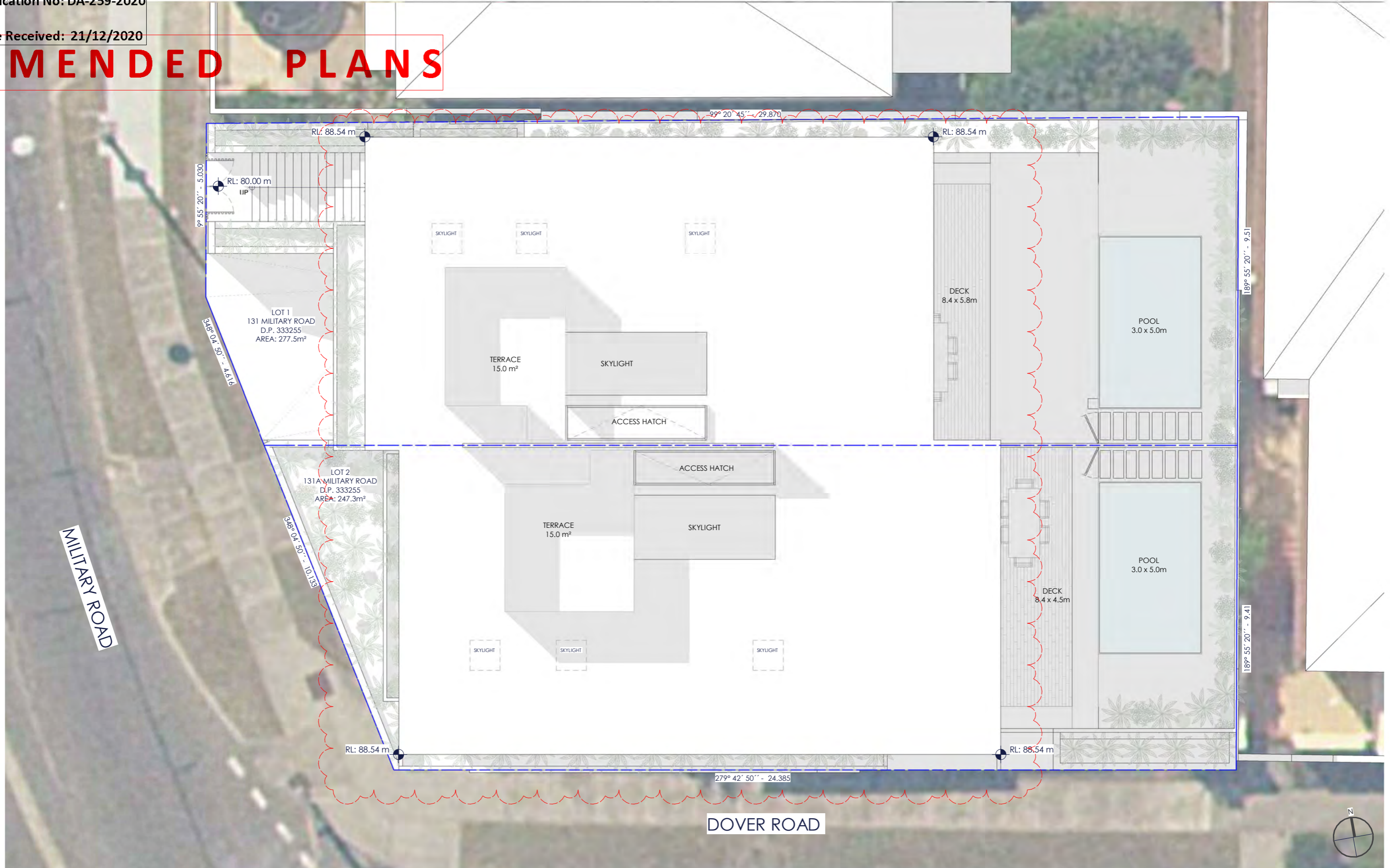
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2	30.11.20	MQ	ISSUE FOR DA
3	18.12.20	MQ	ISSUE FOR DA



# AMENDED PLANS



# AMENDED PLANS

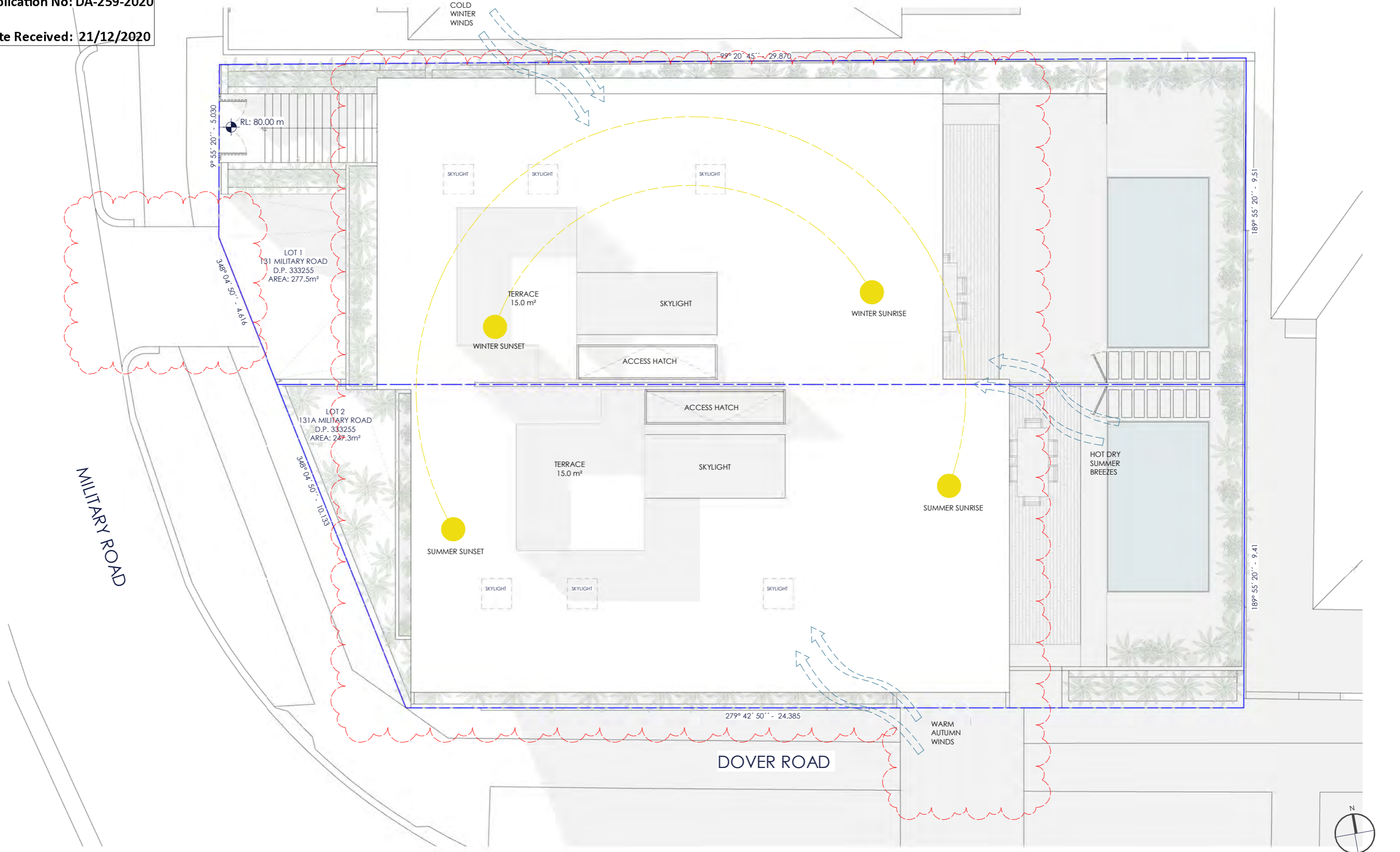


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2	30.11.20	MQ	ISSUE FOR DA
3	18.12.20	MQ	ISSUE FOR DA

# AMENDED PLANS

Application No: DA-259-2020

Date Received: 21/12/2020



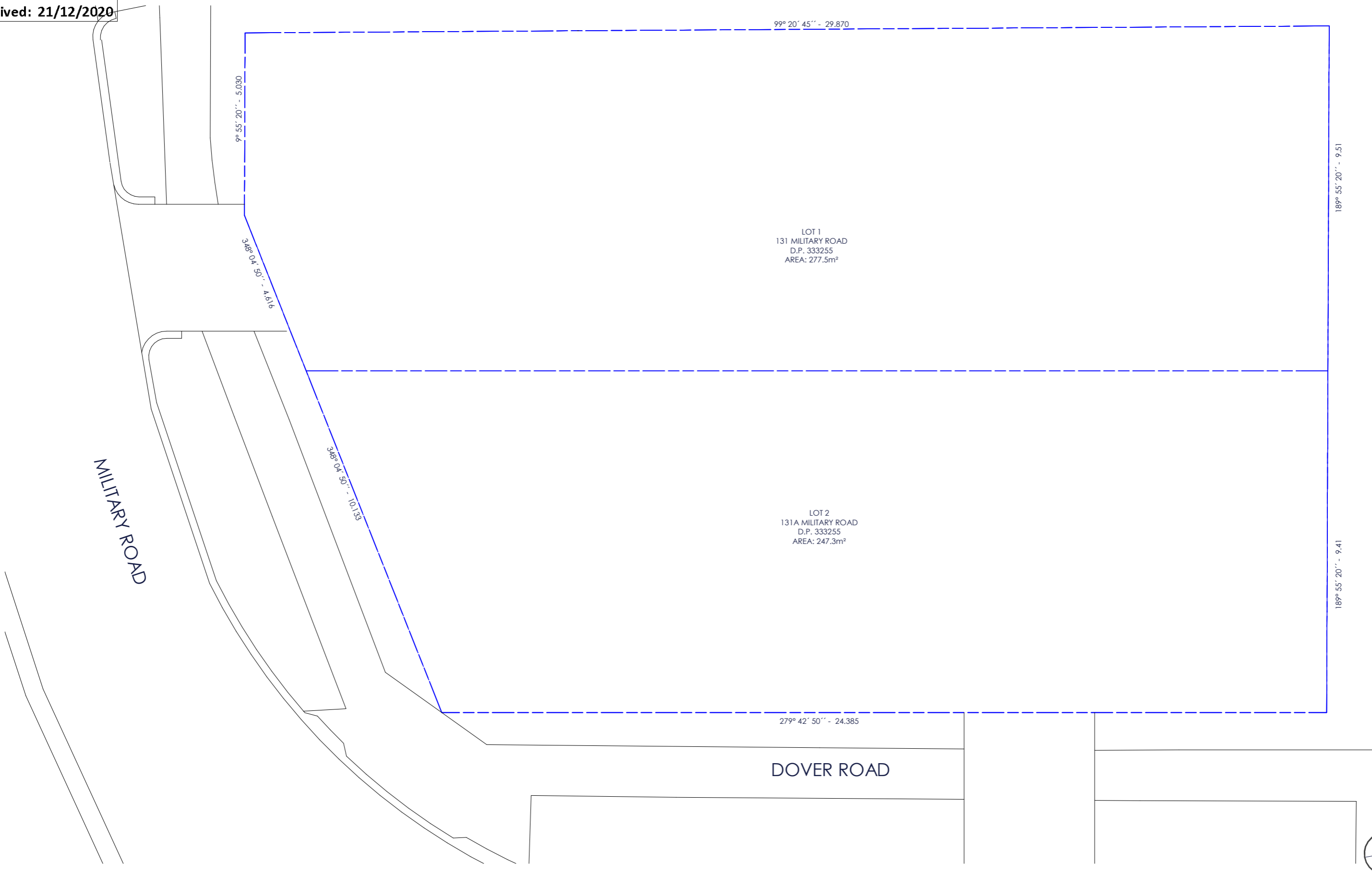
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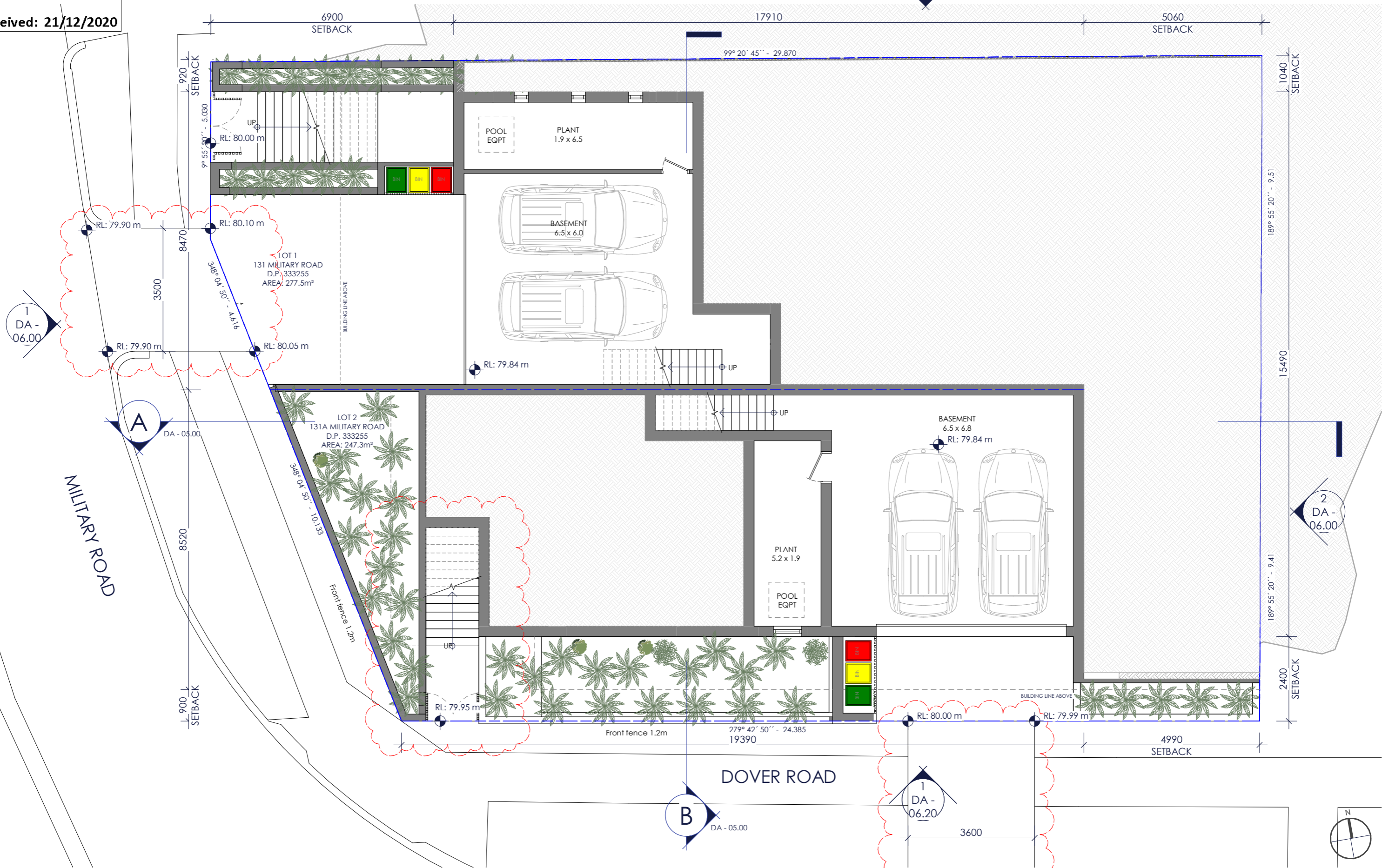


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3	18.12.20	MQ	ISSUE FOR DA

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06.00

A  
DA - 05.00

2  
DA -  
06.00

B  
DA - 05.00

2  
DA -  
06.10



MILITARY ROAD

DOVER ROAD

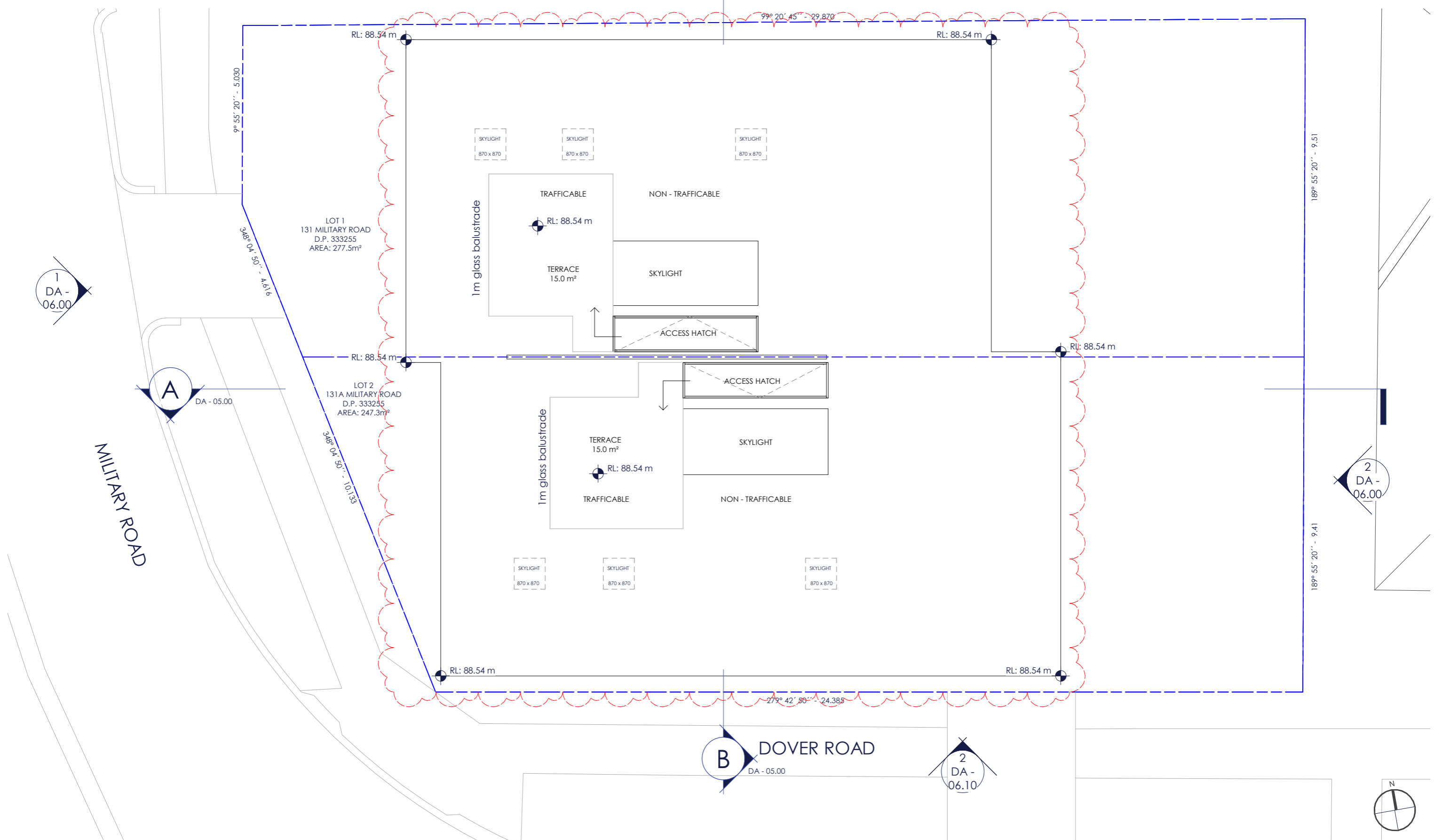
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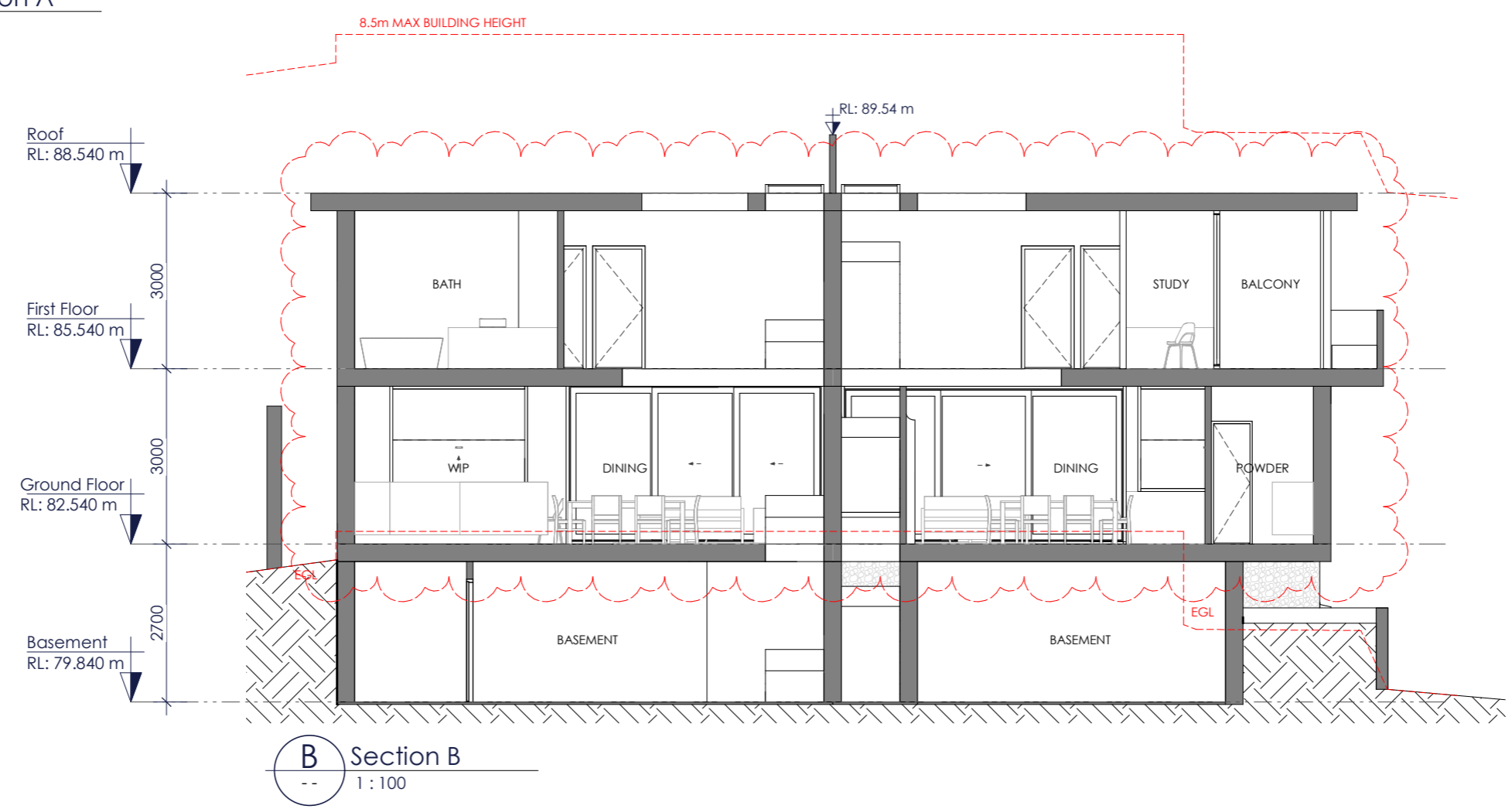
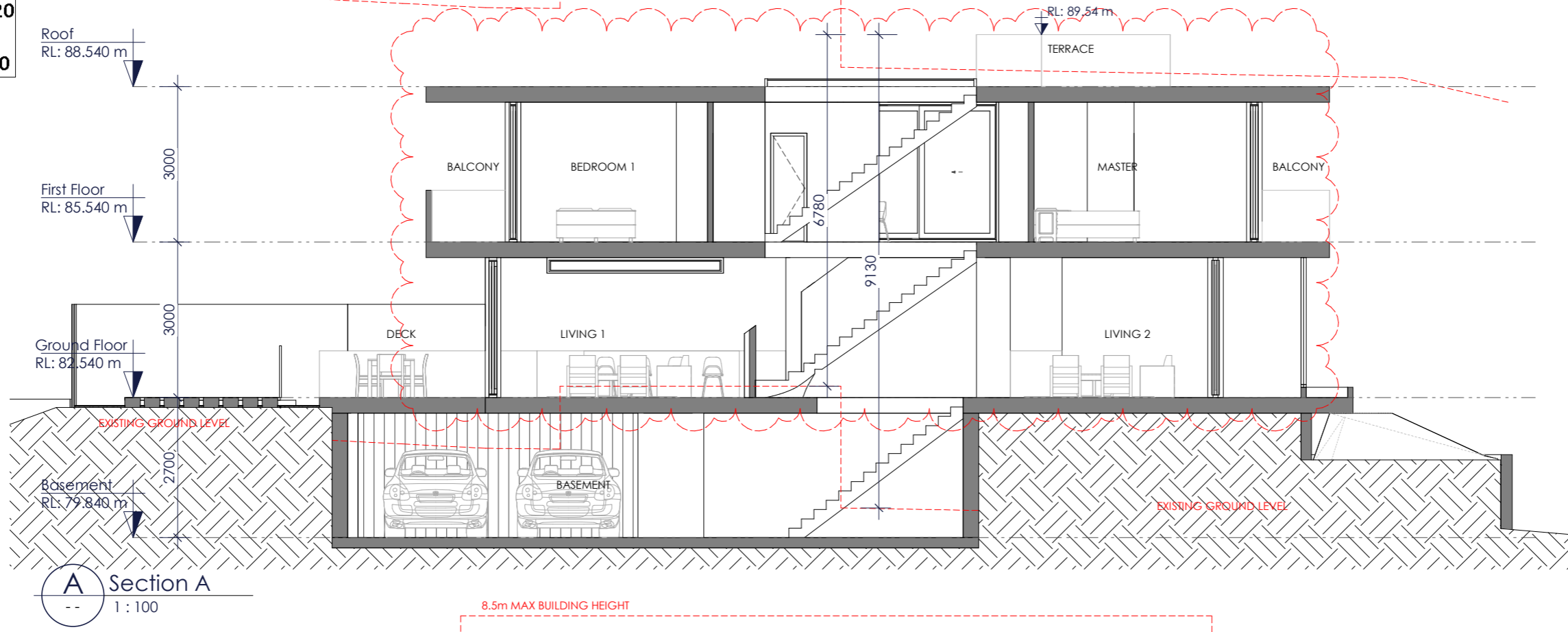
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# AMENDED PLANS

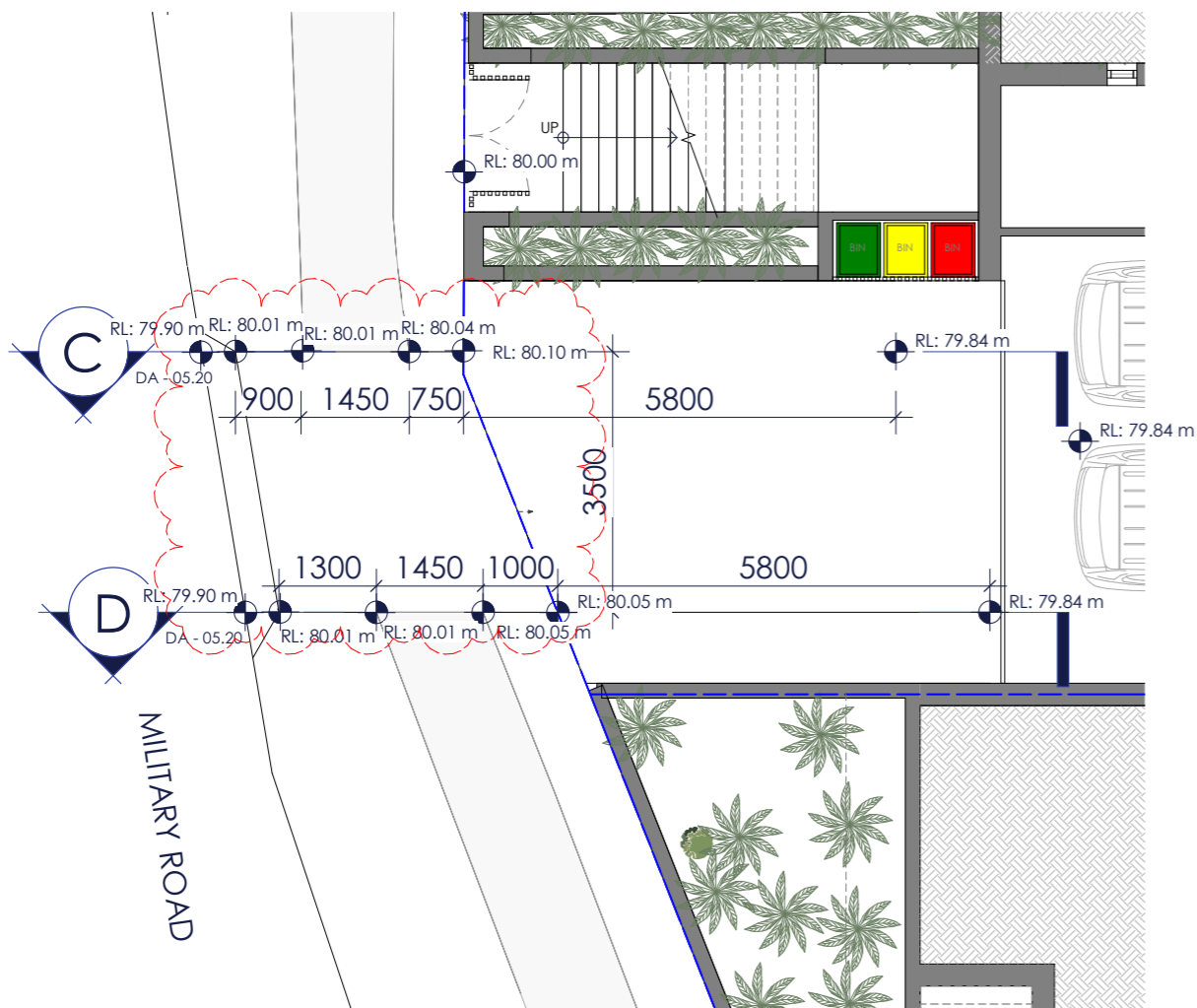
8.5m MAX BUILDING HEIGHT

Application No: DA-259-2020  
Date Received: 21/12/2020

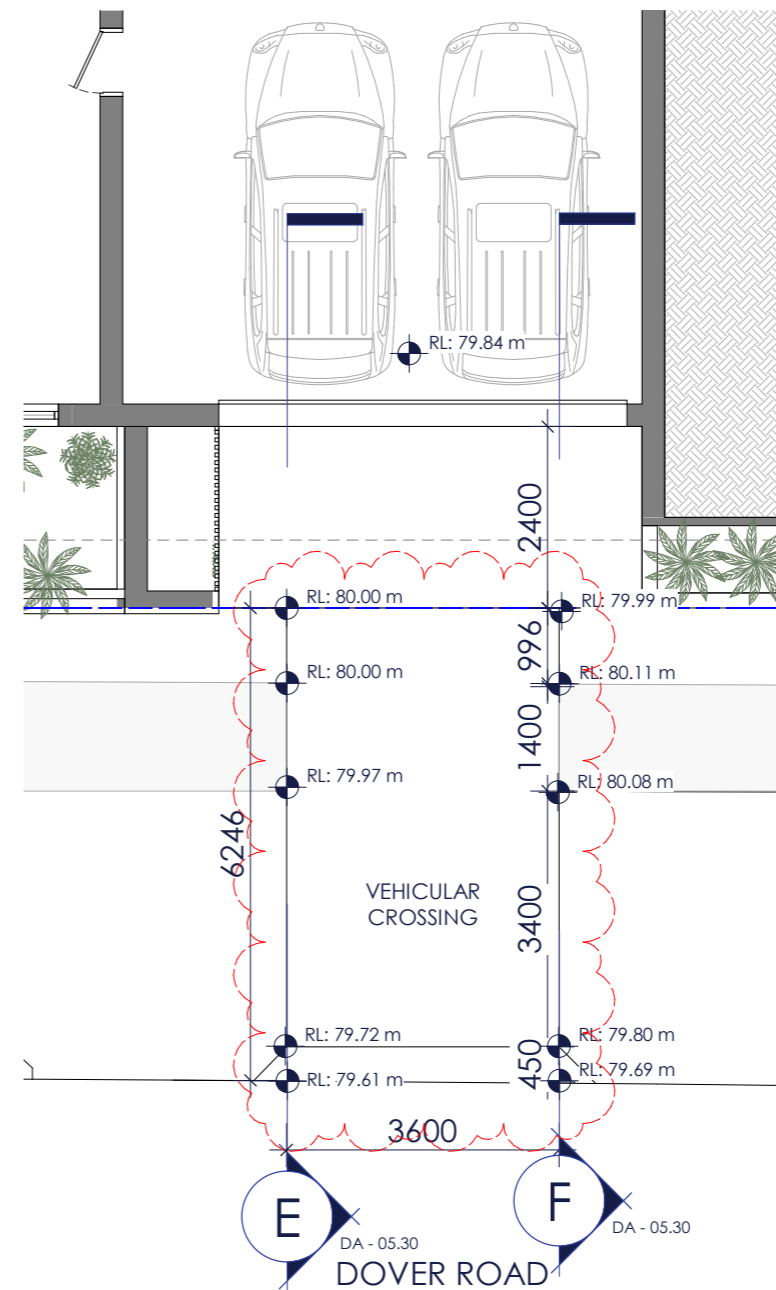


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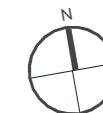
# AMENDED PLANS



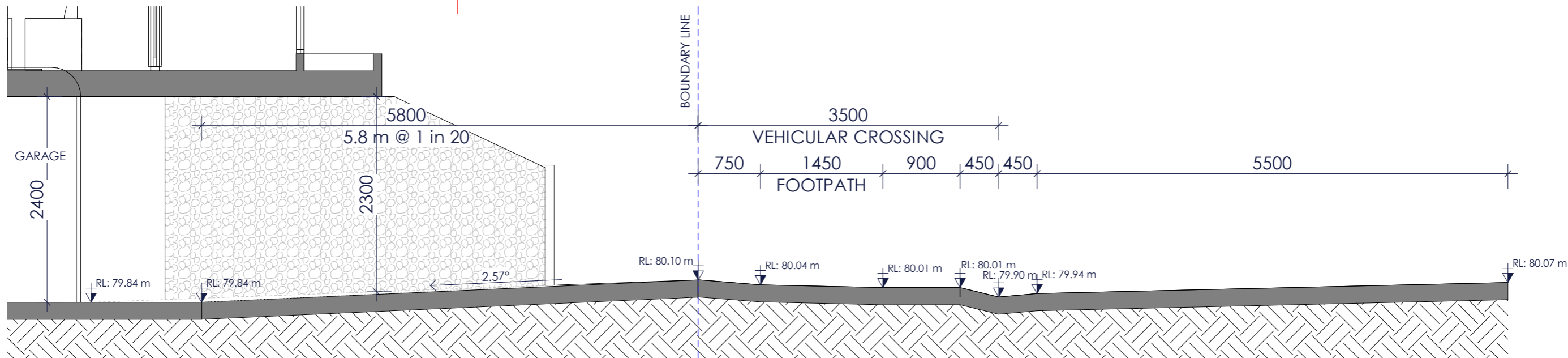
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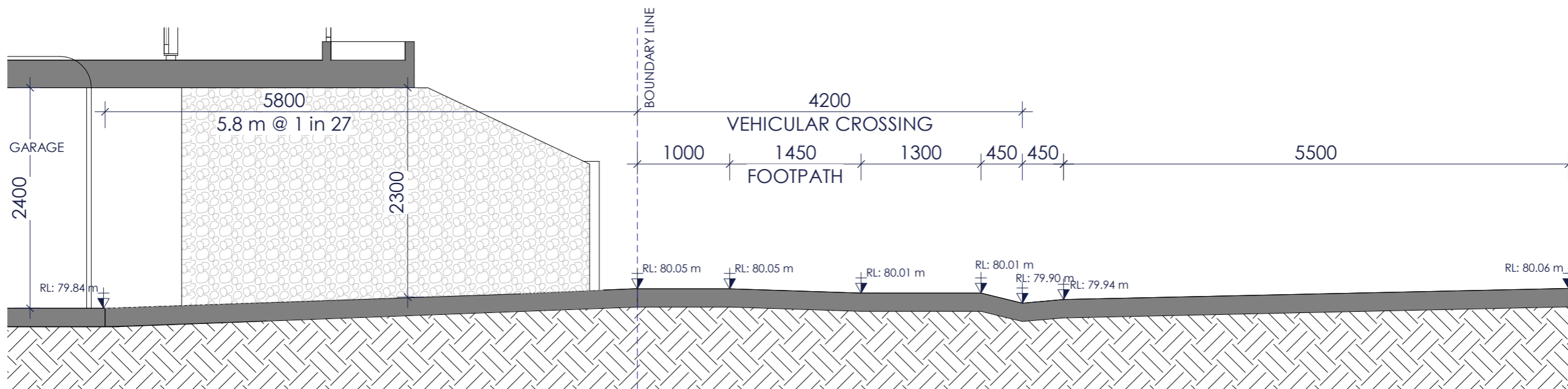
2 DOVER ROAD DRIVEWAY  
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# AMENDED PLANS



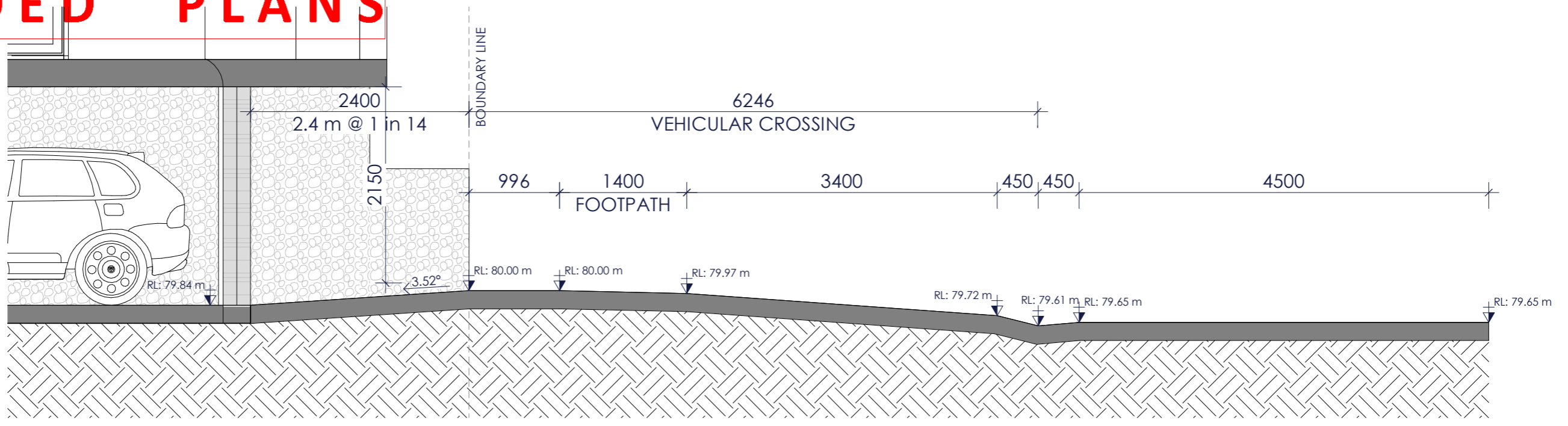
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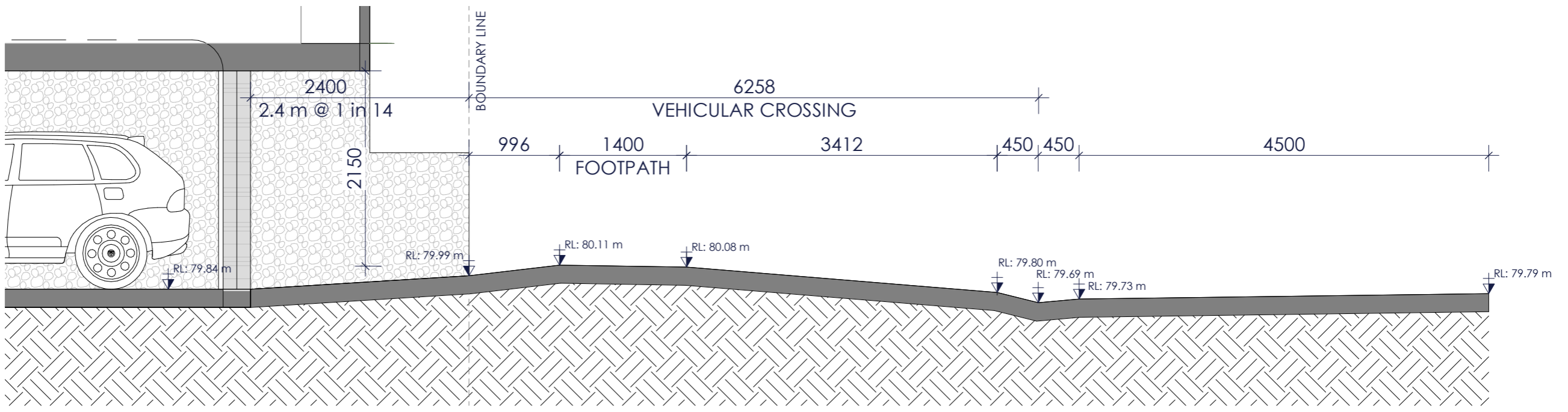
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**AMENDED PLANS**



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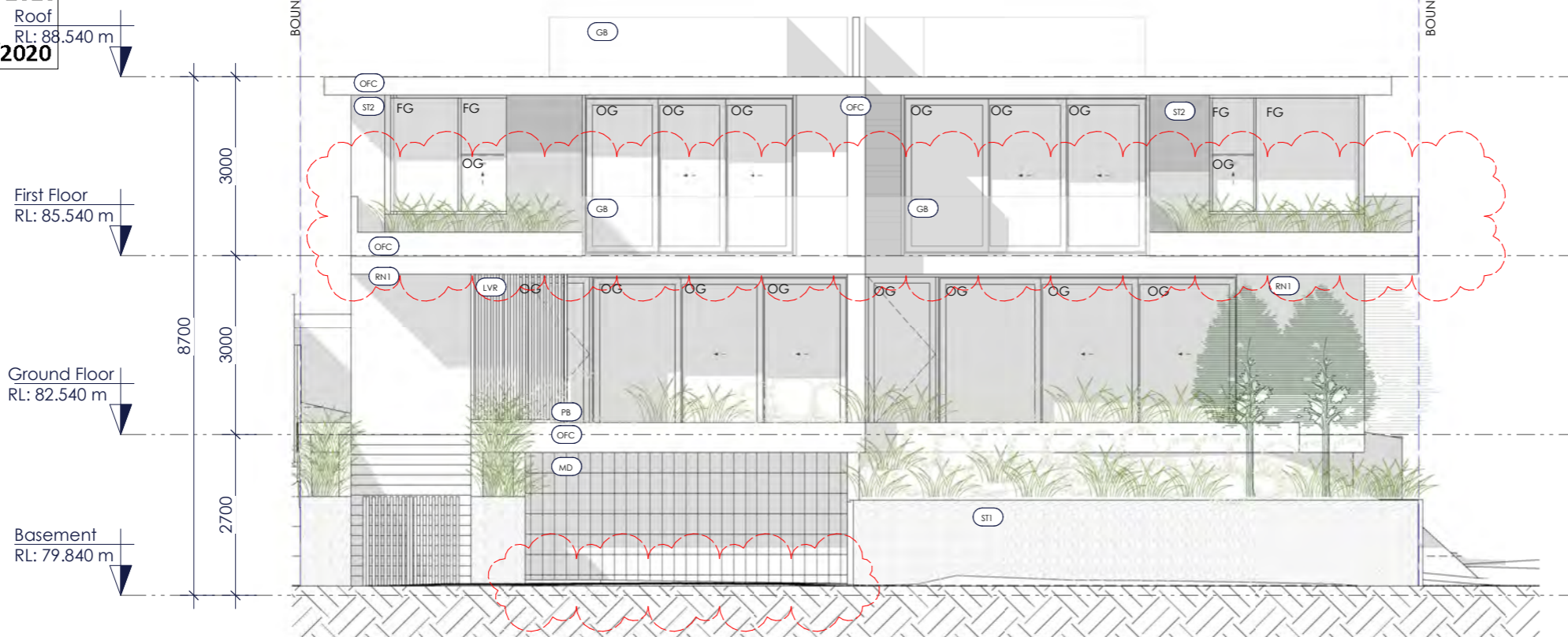
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# AMENDED PLANS

Application No: DA-259-2020

Roof  
RL: 88.540 m

Date Received: 21/12/2020



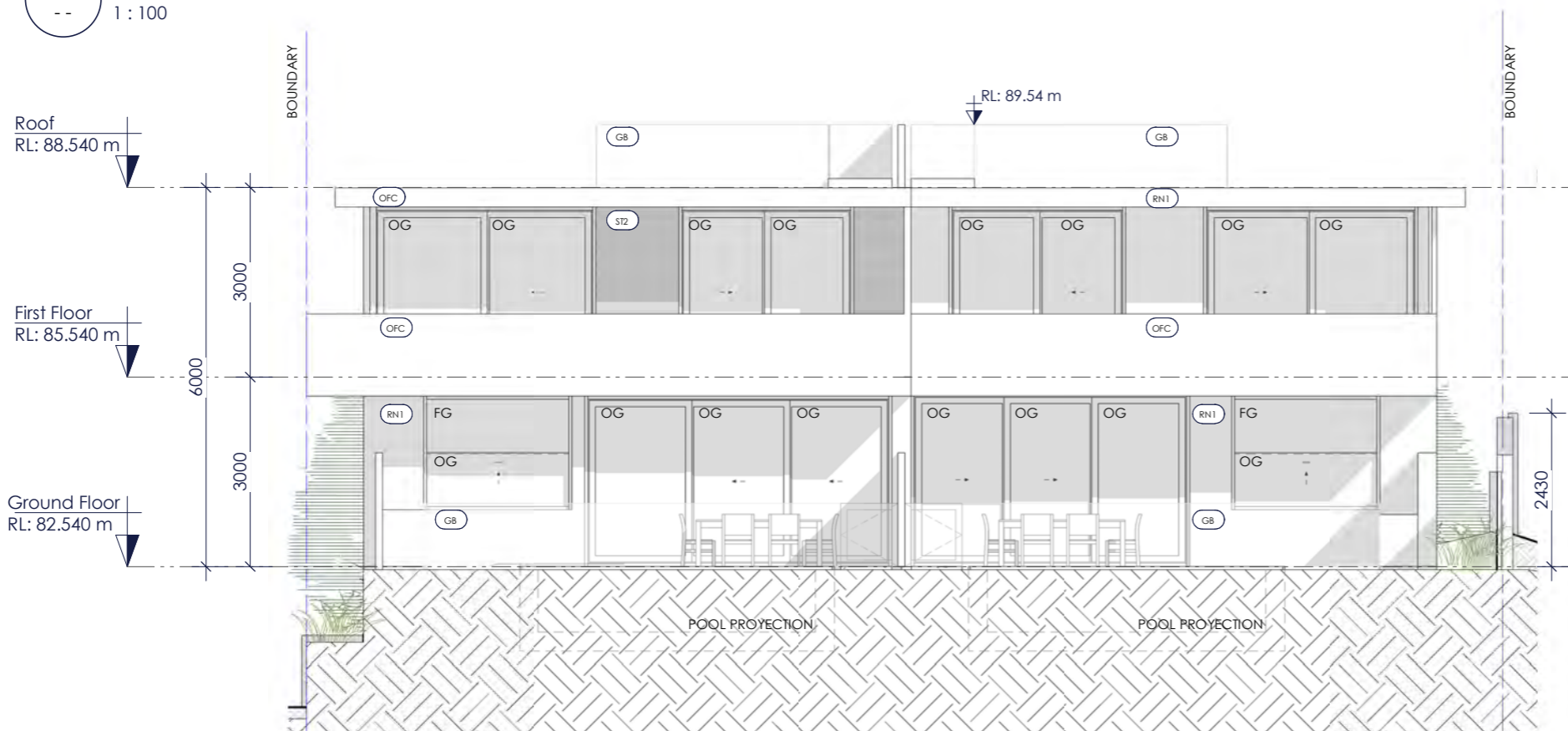
**1** WEST ELEVATION  
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### EXTERNAL FINISHES

- OFC OFF FORM CONCRETE
- ST1 SANDSTONE
- ST2 BLACKSTONE
- RN1 RENDER
- GB GLASS BALUSTRADE
- PB PLANTER BOX
- MD METAL DOOR
- LVR LOUVRE

### WINDOWS & DOORS

- OG OPERABLE GLAZING
- FG FIXED GLAZING
- TG TRANSLUCENT



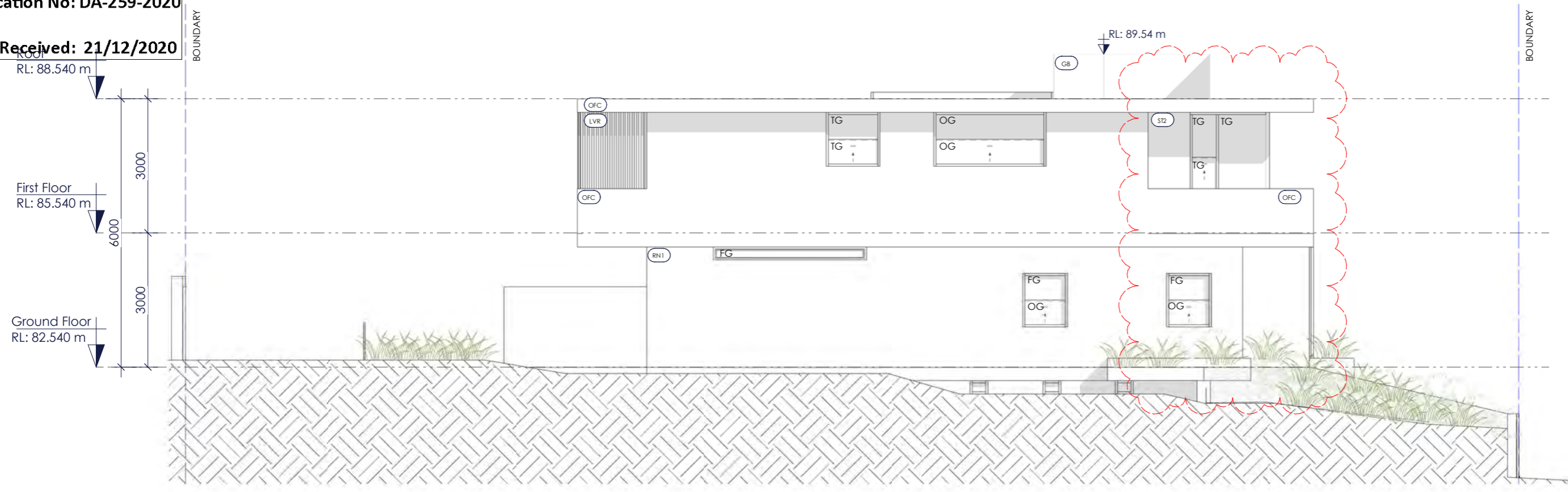
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# AMENDED PLANS

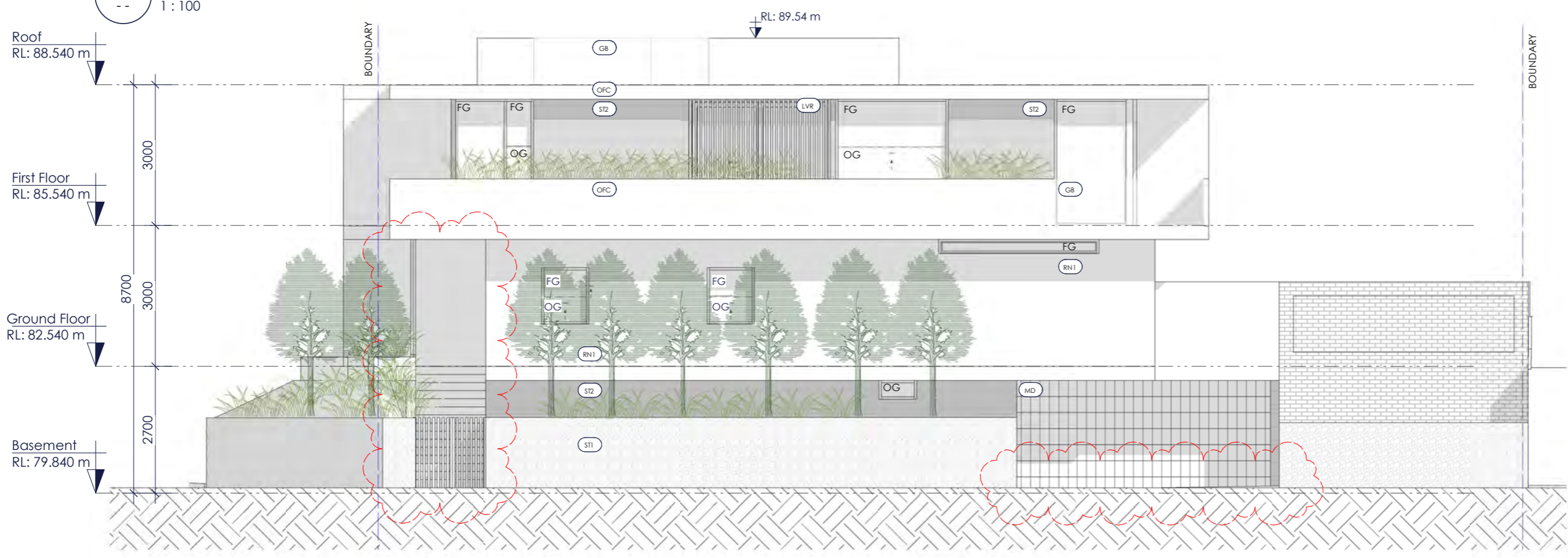
## DEVELOPMENT APPLICATION

Application No: DA-259-2020

Date Received: 21/12/2020



1 NORTH ELEVATION  
-- 1:100



2 SOUTH ELEVATION  
-- 1:100

### EXTERNAL FINISHES

- OFC OFF FORM CONCRETE
- ST1 SANDSTONE
- ST2 BLACKSTONE
- RN1 RENDER
- GB GLASS BALUSTRADE
- PB PLANTER BOX
- MD METAL DOOR
- LVR LOUVRE

### WINDOWS & DOORS

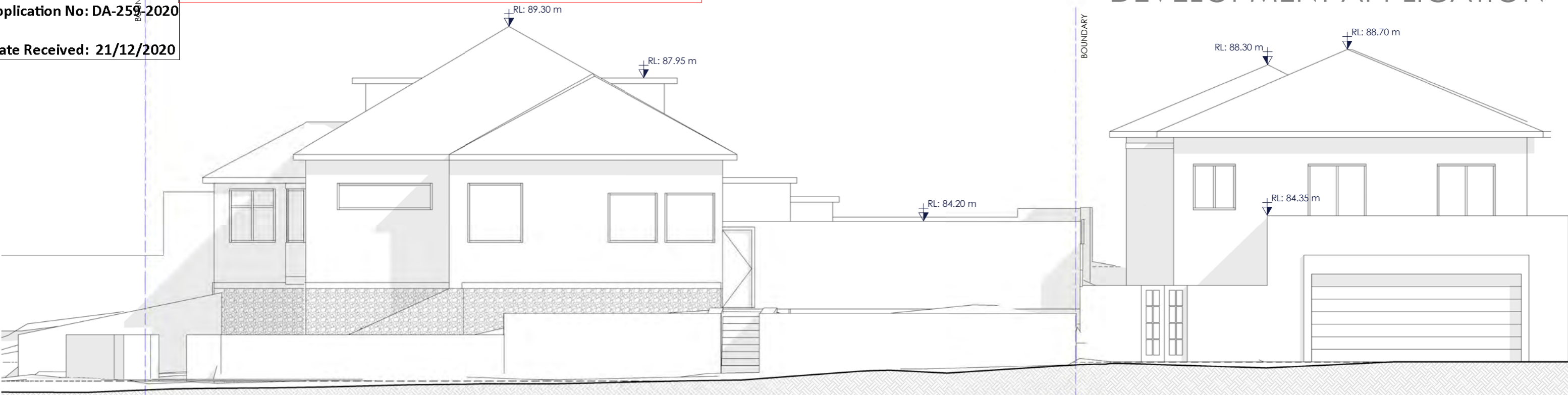
- OG OPERABLE GLAZING
- FG FIXED GLAZING
- TG TRANSLUCENT

# AMENDED PLANS

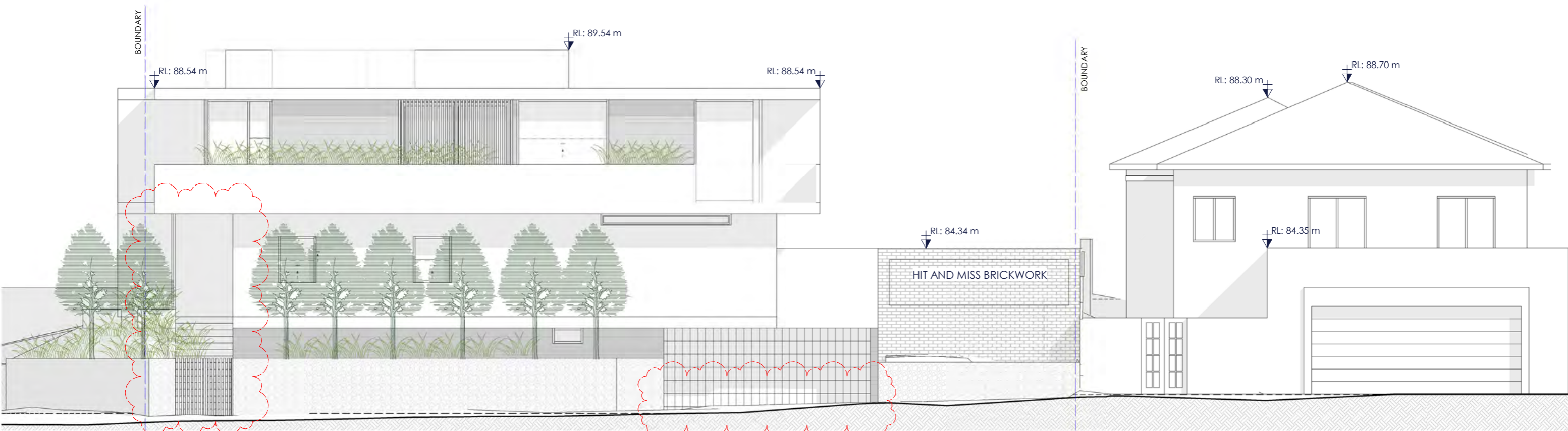
Application No: DA-250-2020

Date Received: 21/12/2020

## DEVELOPMENT APPLICATION



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-- 1 : 100



1 DOVER ROAD - PROPOSED  
-- 1 : 100

#	Date	By	Description
1	29.06.20	RM	ISSUE FOR DA
2	30.11.20	MQ	ISSUE FOR DA
3	18.12.20	MQ	ISSUE FOR DA

DRAWN BY:  
MQ  
 SCALE @ A3  
1 : 100

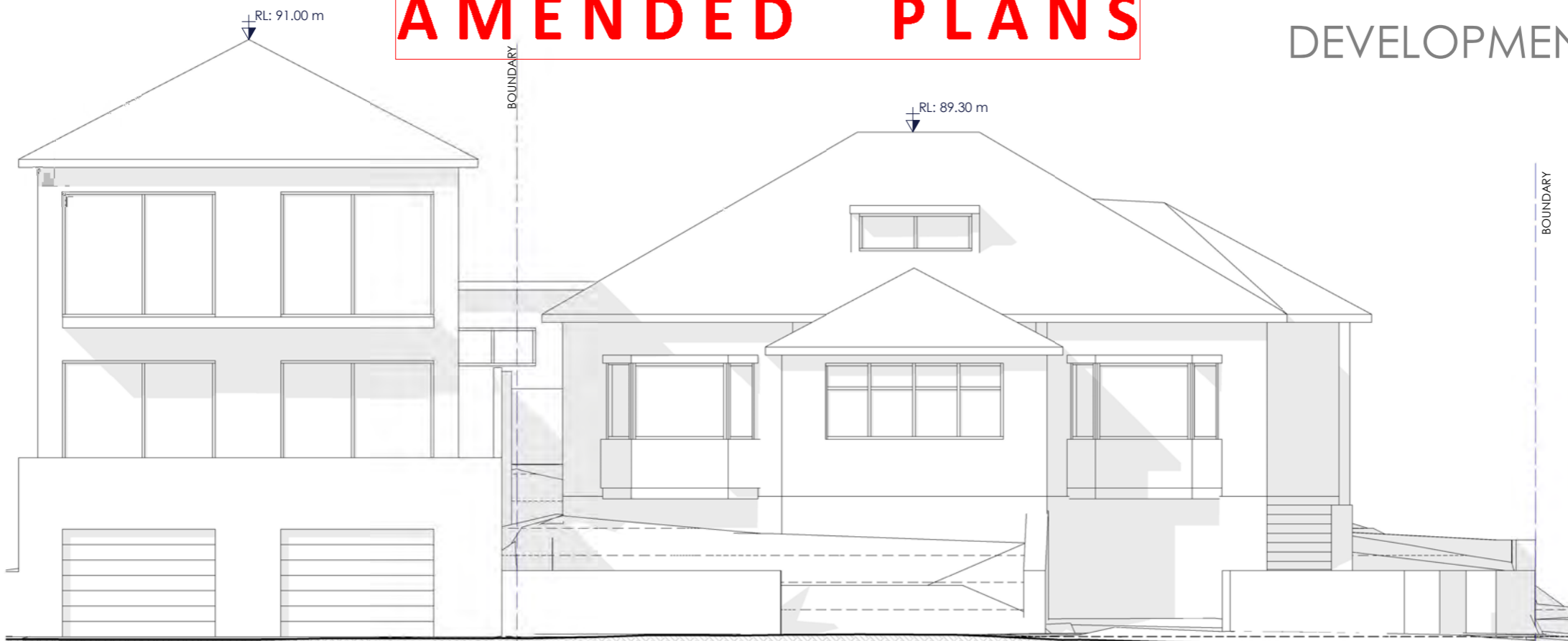
DRAWING NUMBER REVISION

DA - 06.20 3

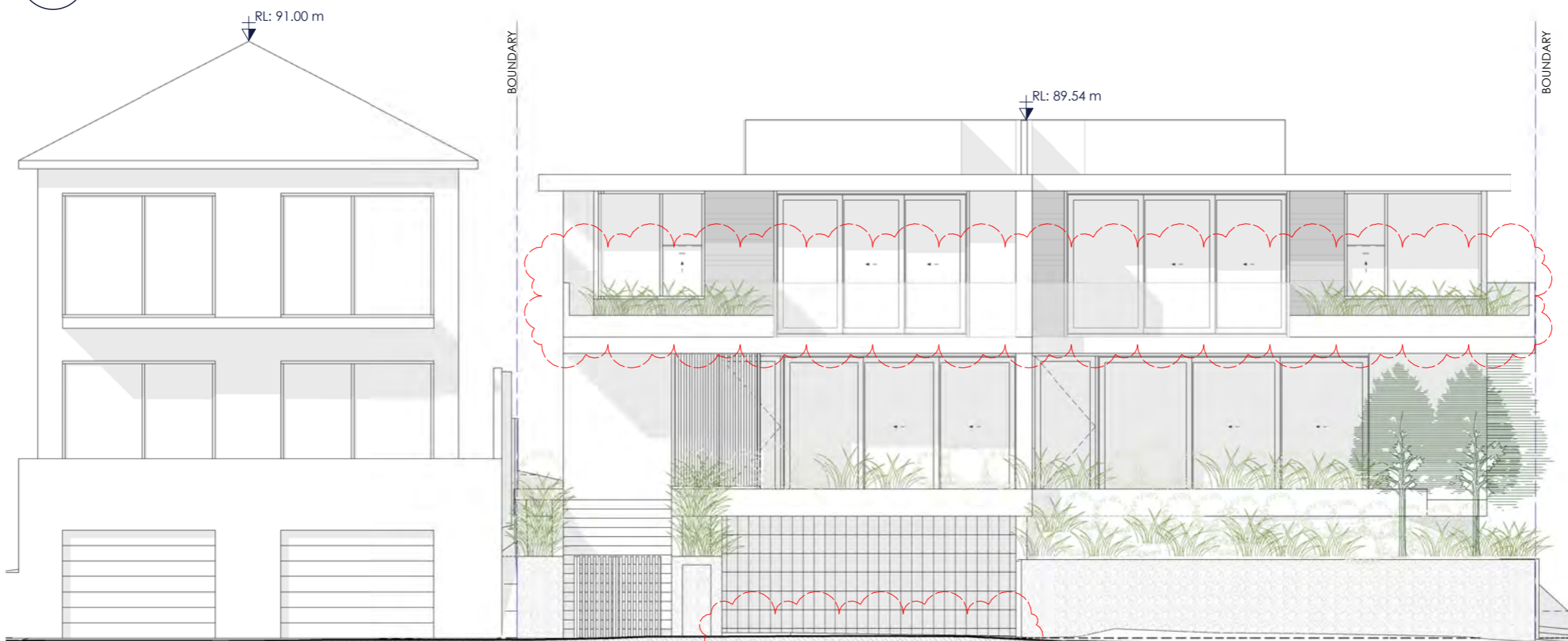
# AMENDED PLANS

## DEVELOPMENT APPLICATION

RECEIVED  
Waverley Council  
Application No: DA-259-2020  
Date Received: 21/12/2020



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-- 1:100



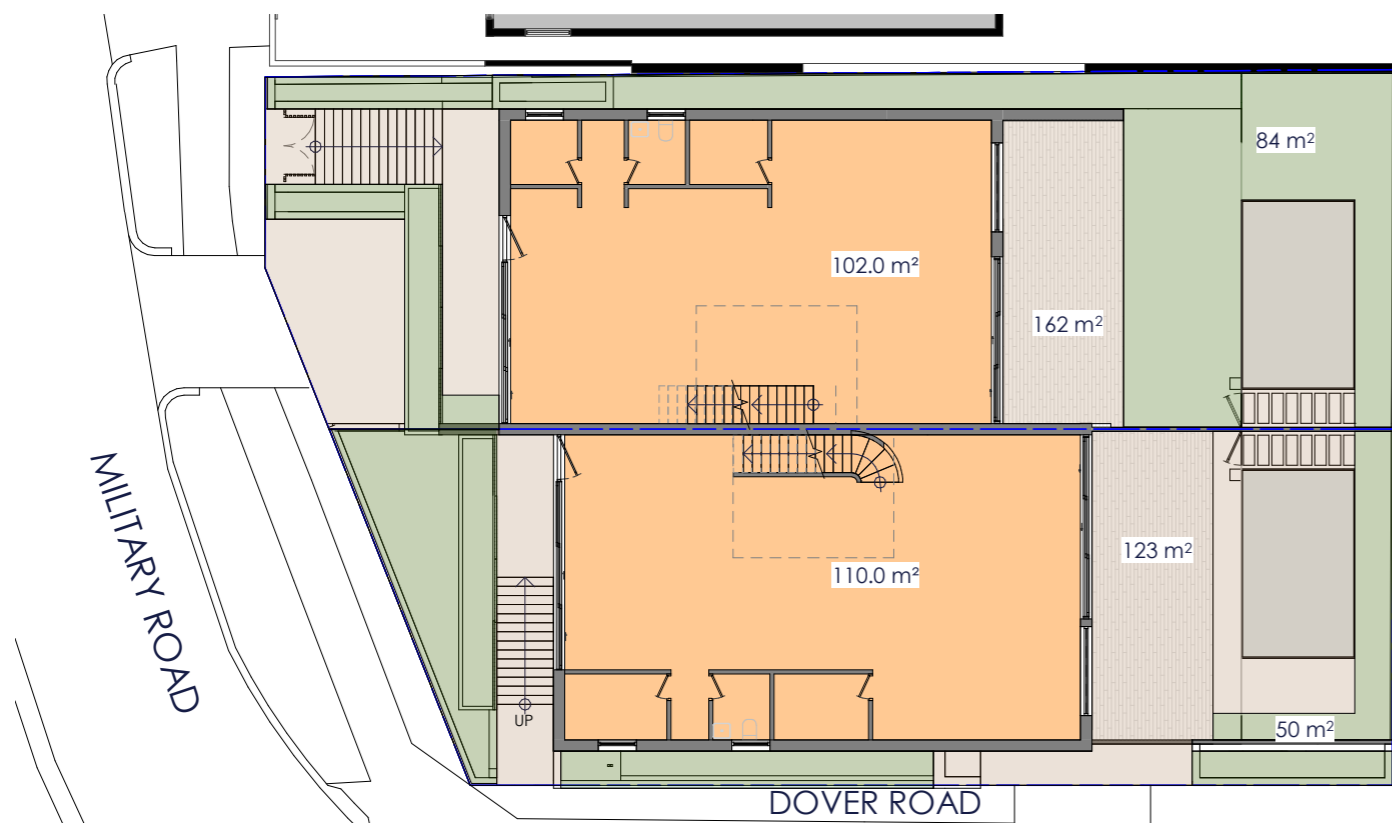
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#	Date	By	Description
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2	30.11.20	MQ	ISSUE FOR DA
3	18.12.20	MQ	ISSUE FOR DA

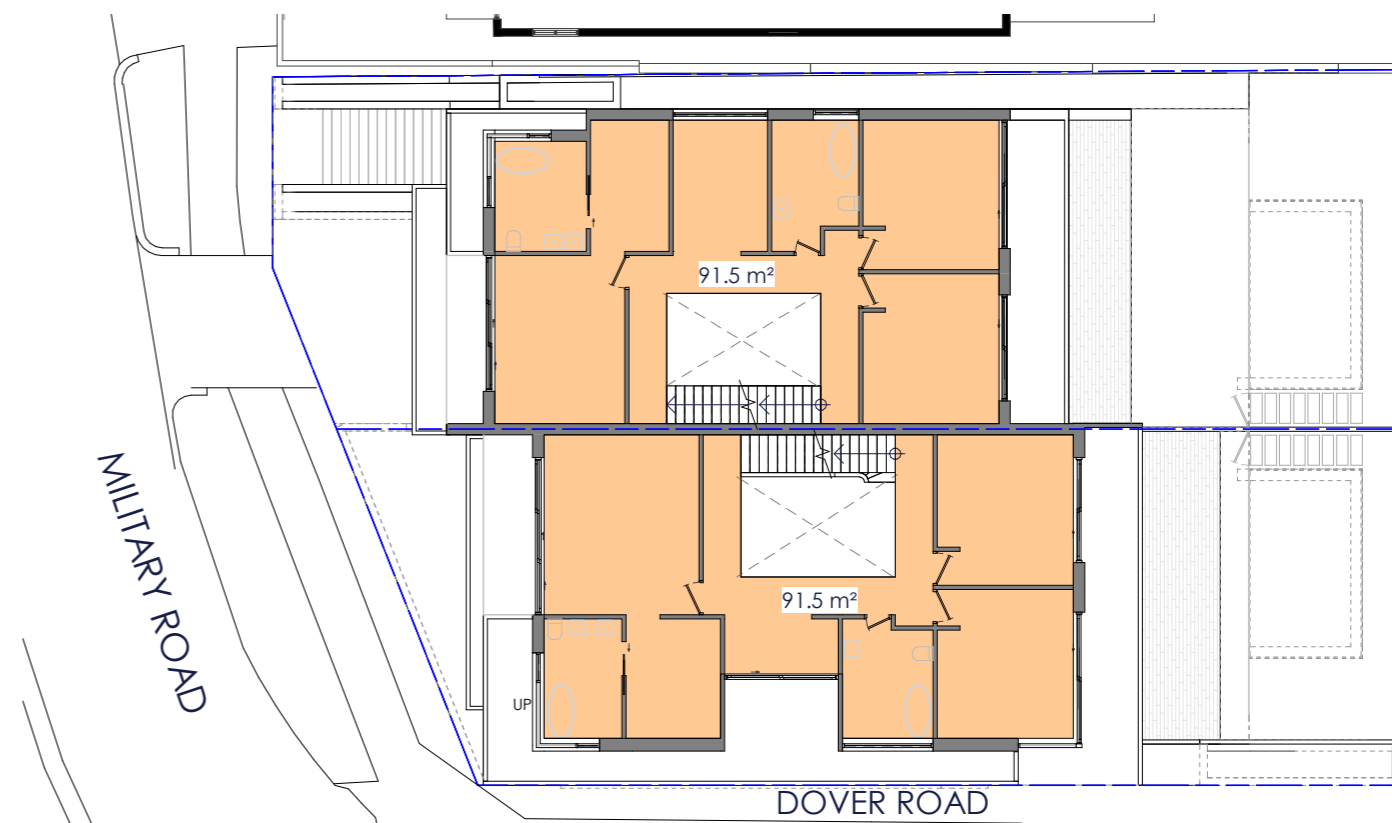
# AMENDED PLANS

COMPLIANCE TABLE

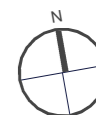
LOT 1, DP 333255 131 MILITARY RD, DOVER HEIGHTS ZONING: R2		
SITE AREA: 524.8 m <sup>2</sup>	CONTROL	PROPOSED
FSR:	0.53:1 278.1m <sup>2</sup>	0.75:1 395.0 m <sup>2</sup>
HEIGHT:	8.5m	COMPLY
SITE COVERAGE:		212.0m <sup>2</sup>
LANDSCAPE:		204.9m <sup>2</sup>
DEEP SOIL		155.5m <sup>2</sup>



1 GROUND FLOOR  
1 : 200



2 FIRST FLOOR  
1 : 200



# AMENDED PLANS

# DEVELOPMENT APPLICATION



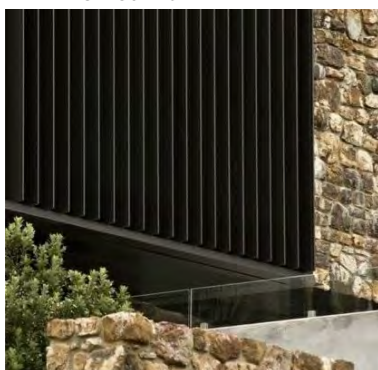
# AMENDED PLANS



## EXTERNAL FINISHES

- OFC OFF FORM CONCRETE
- ST1 SANDSTONE
- ST2 BLACKSTONE
- RN1 RENDER
- GB GLASS BALUSTRADE
- PB PLANTER BOX
- MD METAL DOOR
- LVR LOUVRE

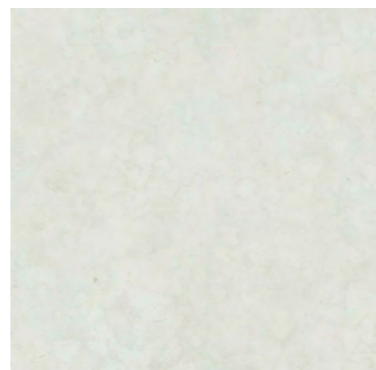
LVR - BLACK LOUVRES



MD - METAL DOOR



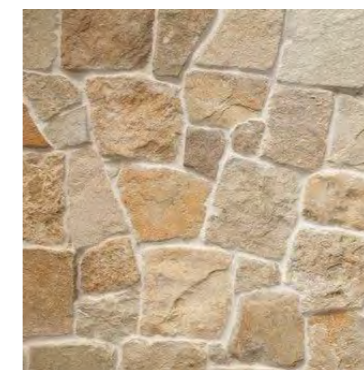
OFC - OFF FORM CONCRETE



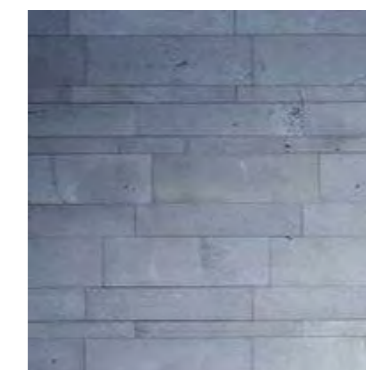
RN1 - WHITE RENDER



ST - SANDSTONE



BST - BLACKSTONE



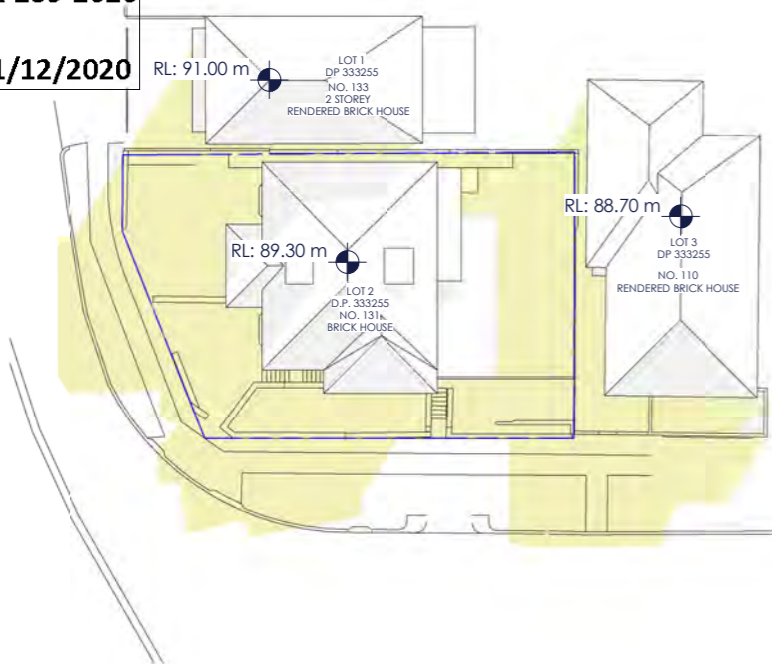


# AMENDED PLANS

# DEVELOPMENT APPLICATION

Application No: DA-259-2020

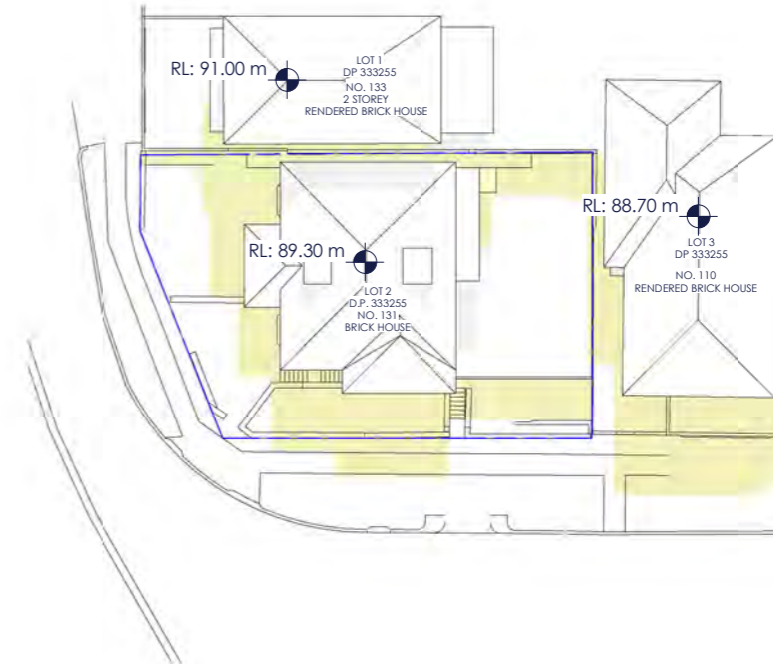
Date Received: 21/12/2020



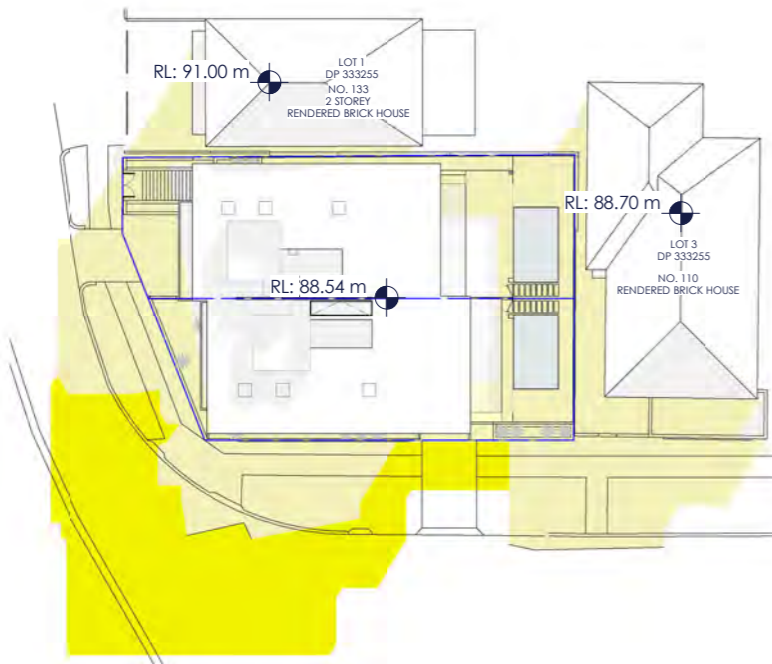
1 EXISTING 9 AM  
-- 1 : 500



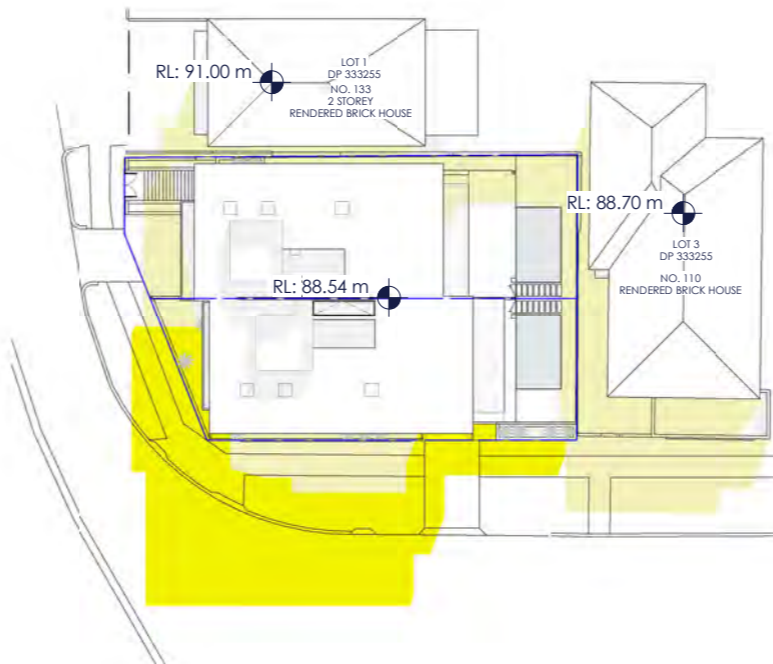
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-- 1 : 500



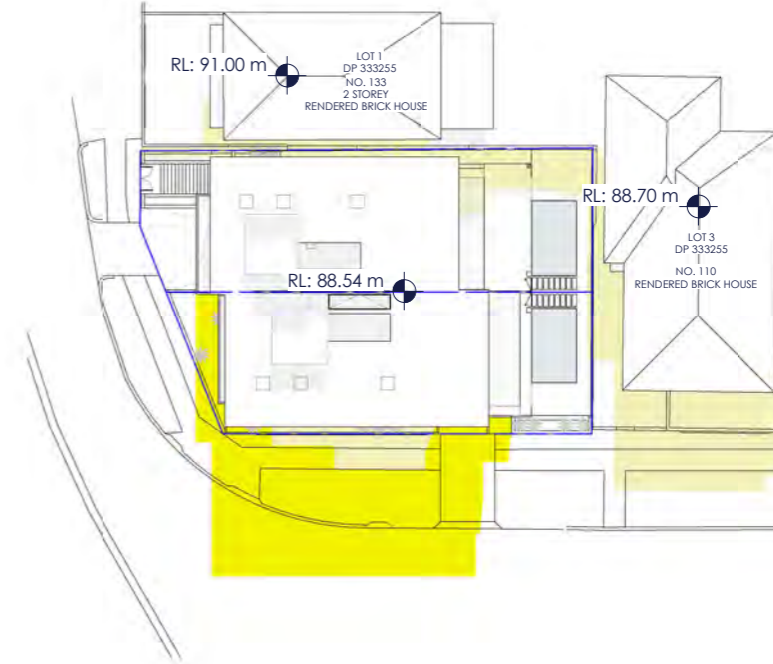
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-- 1 : 500



4 PROPOSED 9 AM  
-- 1 : 500

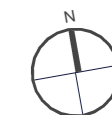


5 PROPOSED 10 AM  
-- 1 : 500



6 PROPOSED 11 AM  
-- 1 : 500

SHADOW CAST BY EXISTING STRUCTURE  
 SHADOW CAST BY PROPOSED DEVELOPMENT

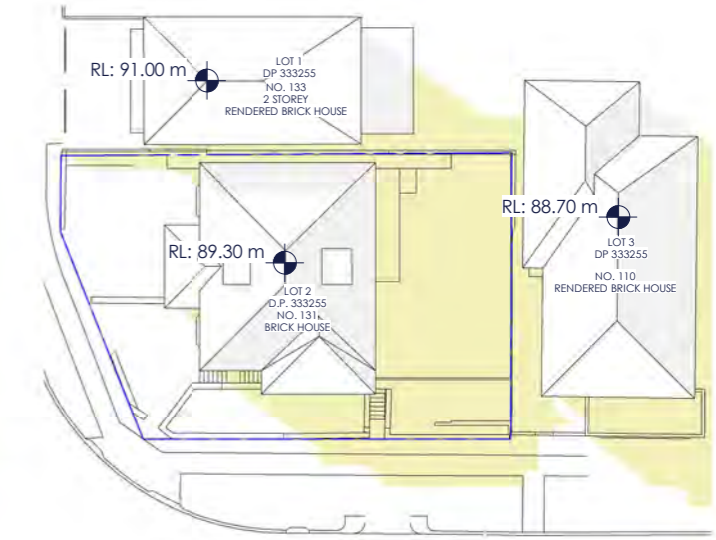
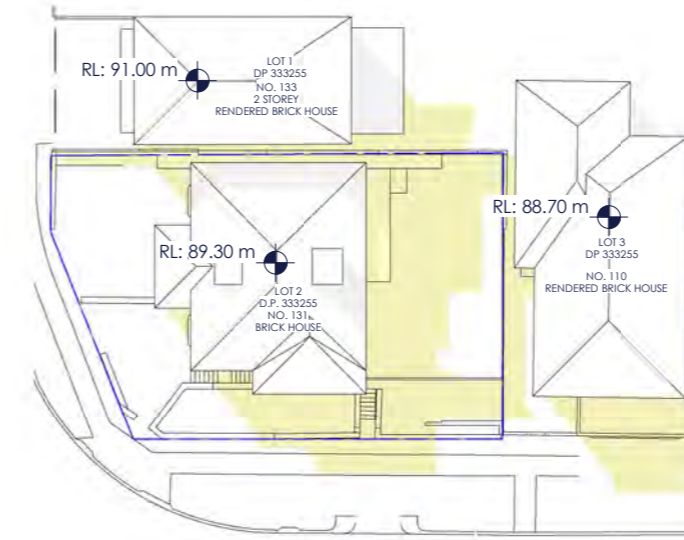
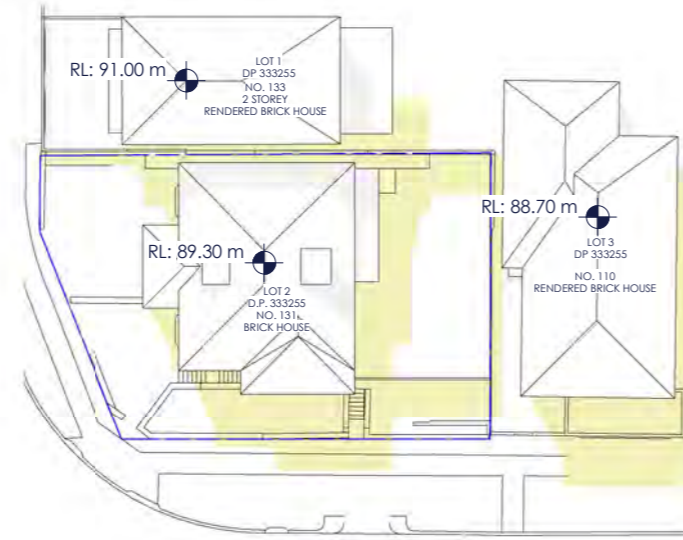
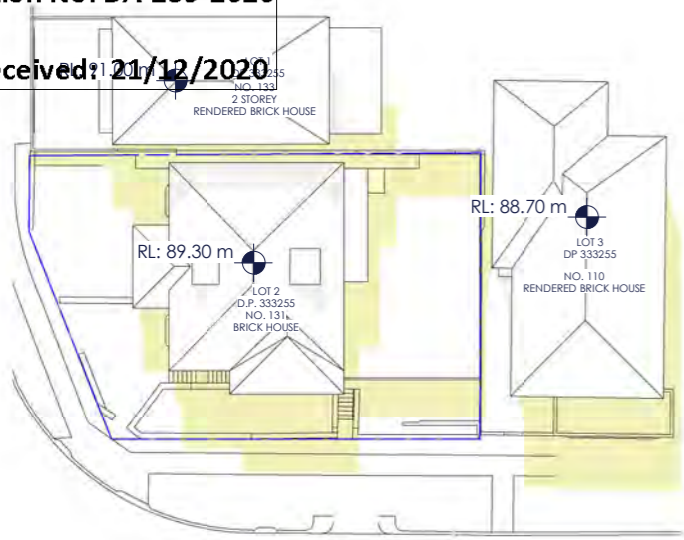


# AMENDED PLANS

## DEVELOPMENT APPLICATION

Application No: DA-259-2020

Date Received: 21/12/2020

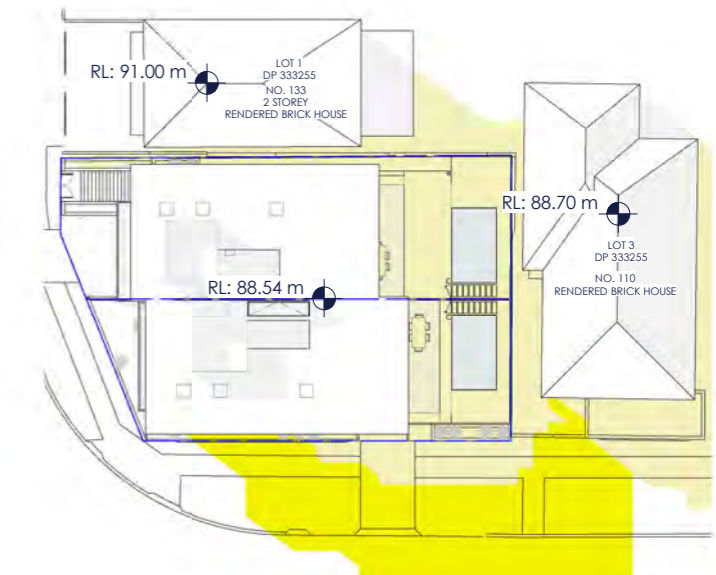
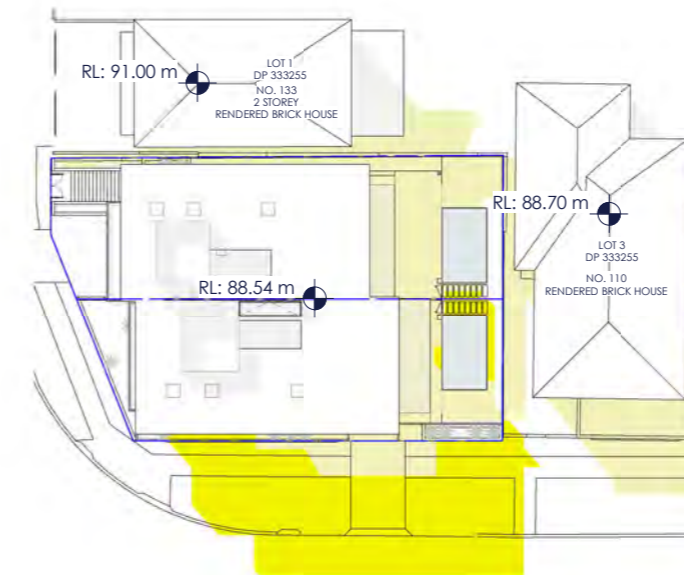
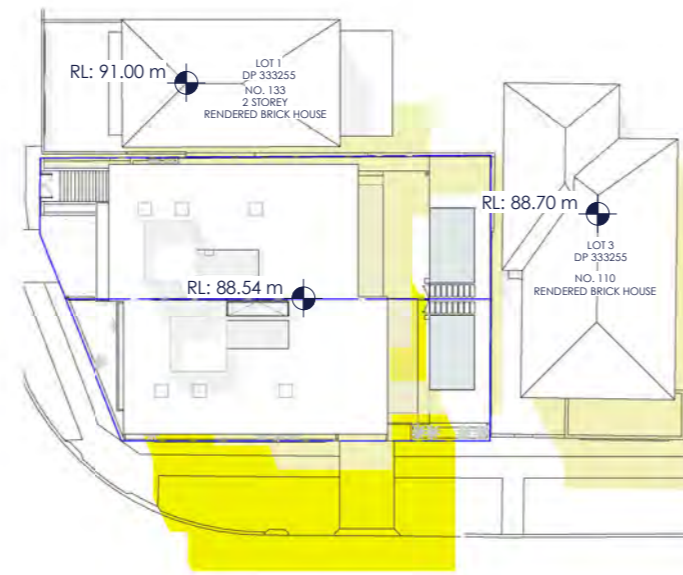
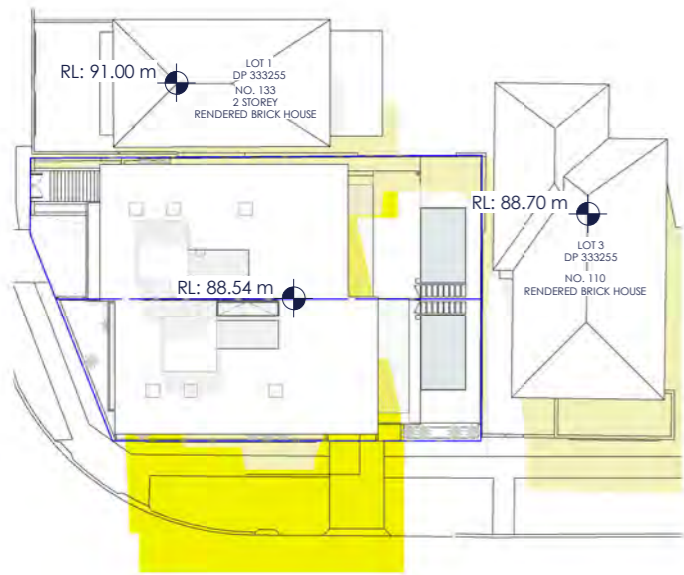


**1** EXISTING 12 PM  
-- 1 : 500

**2** EXISTING 1 PM  
-- 1 : 500

**3** EXISTING 2 PM  
-- 1 : 500

**4** EXISTING 3 PM  
-- 1 : 500



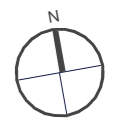
**5** PROPOSED 12 PM  
-- 1 : 500

**6** PROPOSED 1 PM  
-- 1 : 500

**7** PROPOSED 2 PM  
-- 1 : 500

**8** PROPOSED 3 PM  
-- 1 : 500

SHADOW CAST BY EXISTING STRUCTURE  
 SHADOW CAST BY PROPOSED DEVELOPMENT



#	Date	By	Description
1	29.06.20	RM	ISSUE FOR DA
2	30.11.20	MQ	ISSUE FOR DA
3	18.12.20	MQ	ISSUE FOR DA

DRAWN BY:  
 MQ  
  
 SCALE @ A3  
 1 : 500

DRAWING NUMBER REVISION

DA - 09.10 **3**  
154



**LOW DENSITY RESIDENTIAL DEVELOPMENT**  
 Dwelling house, Dual Occupancy, Semi-detached dwelling,  
 Attached dwelling, Secondary dwelling

## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-414/2020
<b>Site address</b>	59 Lamrock Avenue, BONDI BEACH NSW 2026
<b>Proposal</b>	Two (2) lot Torrens title subdivision of approved dual occupancy
<b>Date of lodgement</b>	3 December 2020
<b>Owner</b>	Mr S P K Lau
<b>Applicant</b>	White Ink Studio
<b>Submissions</b>	Not Notified
<b>Cost of works</b>	Nil
<b>Issues</b>	Non-compliance with minimum lot size requirements and FSR, Inconsistent with existing consent
<b>Recommendation</b>	That the application be <b>REFUSED</b>

### Site Map



## PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 15 December 2020.

The site is identified as Lot 100 in DP 5953, known as 59 Lamrock Avenue, Bondi Beach. The site is irregular in shape with a northern (rear) boundary to Cox Avenue measuring 12.19m, a splayed southern frontage to Lamrock Avenue measuring 14.835m and eastern and western side boundaries measuring 38.955m and 30.505m respectively. The site has an area of 423.4m<sup>2</sup> and falls from the rear (north) towards the front (south) by approximately 4.66m.

The site is occupied by a single storey detached dwelling with vehicular access provided from Lamrock Avenue to a double garage within the front setback of the site. A development application (**DA-405/2019**) for demolition of the existing dwelling and construction of a dual occupancy development with integrated parking and strata subdivision has been approved on site however, works are yet to commence.

The subject site is adjoined by a two-storey residential flat building to the east and a pair of semi-detached dwellings to the west. The locality is characterised by a variety of residential developments including semi-detached and detached dwellings and residential flat buildings.



**Figure 1:** Site viewed from Lamrock Avenue.

## 1.2 Relevant History

### DA-405/2019

The previous development application sought consent for demolition of the existing dwelling and construction of a dual occupancy with integrated parking, strata subdivision and tree removal. Following a preliminary review, the application was deferred on 12 March 2020 to address matters with regards to building height non-compliance, FSR non-compliance, height of the wall proposed at the rear boundary and insufficient landscaping within the front setback.

The applicant submitted amended plans on 25 March 2020 that addressed the issues raised in Council's deferral letter by lowering the overall height of the building, reducing the FSR to comply, improving the appearance of the rear boundary wall and increasing the front landscaping.

The application was approved on 21 April 2020, subject to the following special condition of consent:

### **2. GENERAL MODIFICATIONS**

*The application is approved subject to the following plan amendments;*

- a) *Privacy screens are to be provided on the side elevations of the front terraces and designed to mitigate overlooking to adjoining properties. The privacy screens are to be of a light weight material (such as timber or obscure glazing) and be a minimum of 1.6m high when measured from the finished floor level of the terrace.*

*The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.*

Conditions were also imposed with regards to the proposed strata subdivision.

Extracts of the approved architectural plans are shown below:

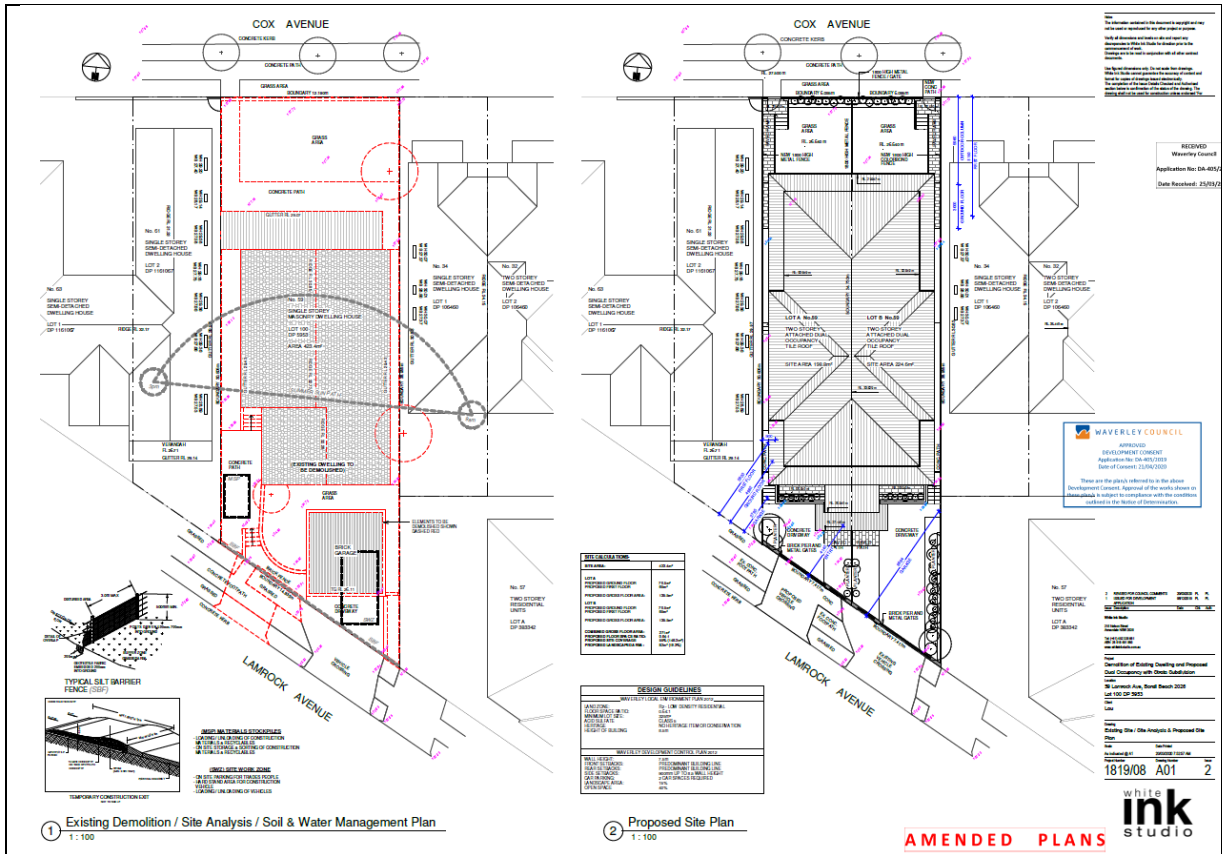


Figure 2: Site plan (approved as part of development consent, DA-405/2019)

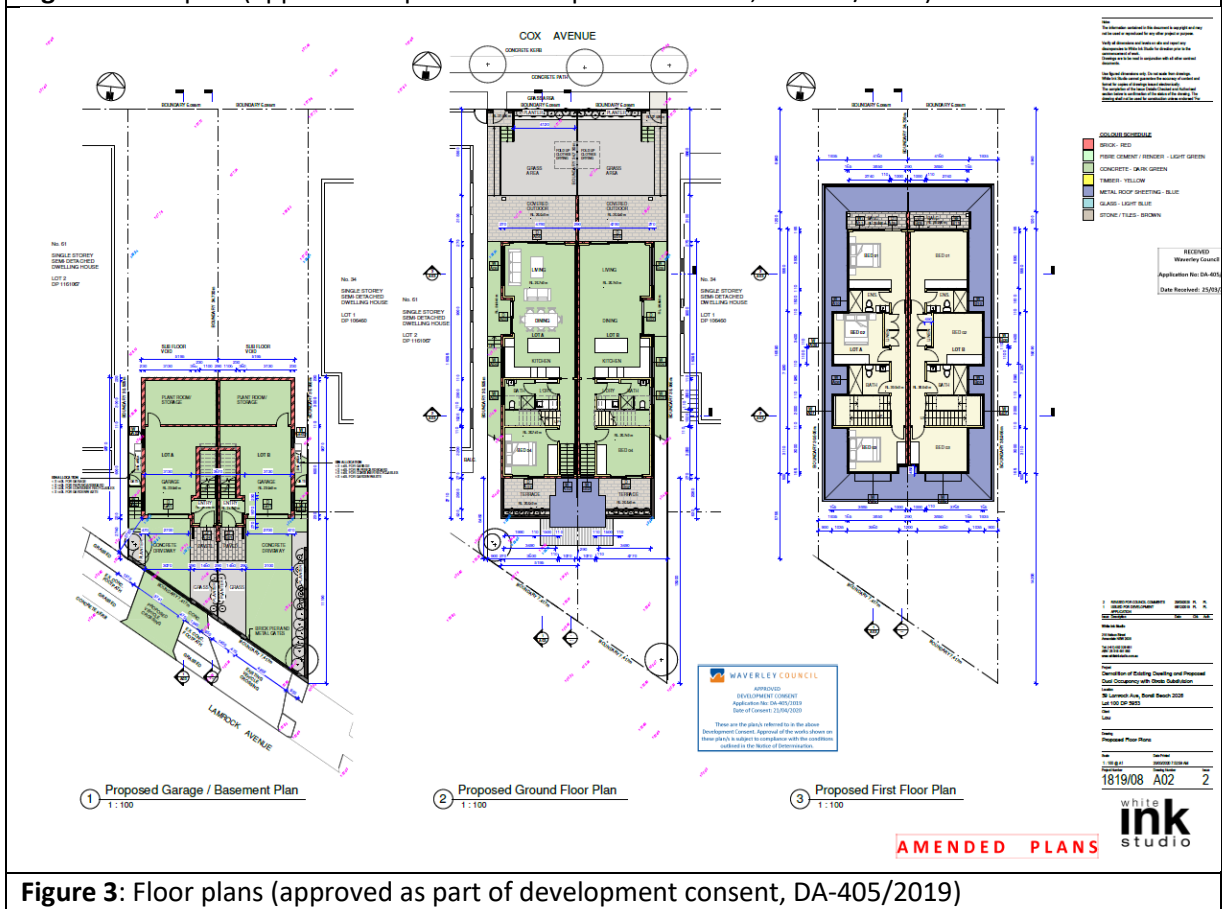
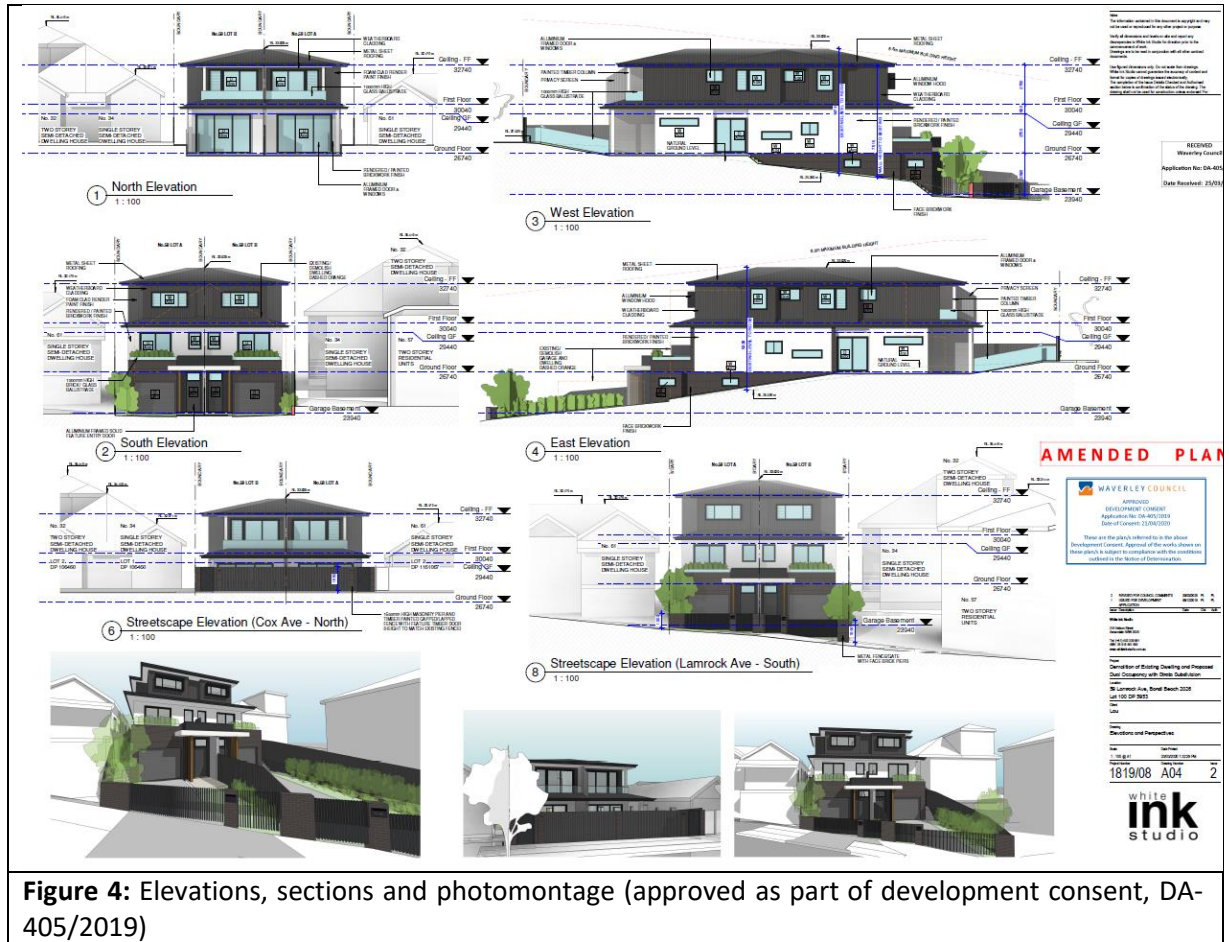


Figure 3: Floor plans (approved as part of development consent, DA-405/2019)



**Figure 4: Elevations, sections and photomontage (approved as part of development consent, DA-405/2019)**

### 1.3 Proposal

The subject application seeks consent for two (2) lot Torrens title subdivision of the approved dual occupancy development as described above. The resulting lots are proposed to have the following characteristics:

#### Lot A

- Site Area: 198.8m<sup>2</sup>
- Frontage to Lamrock Avenue: 7.417m
- Frontage to Cox Avenue: 6.095m

#### Lot B

- Site Area: 224.6m<sup>2</sup>
- Frontage to Lamrock Avenue: 7.417m
- Frontage to Cox Avenue: 6.095m

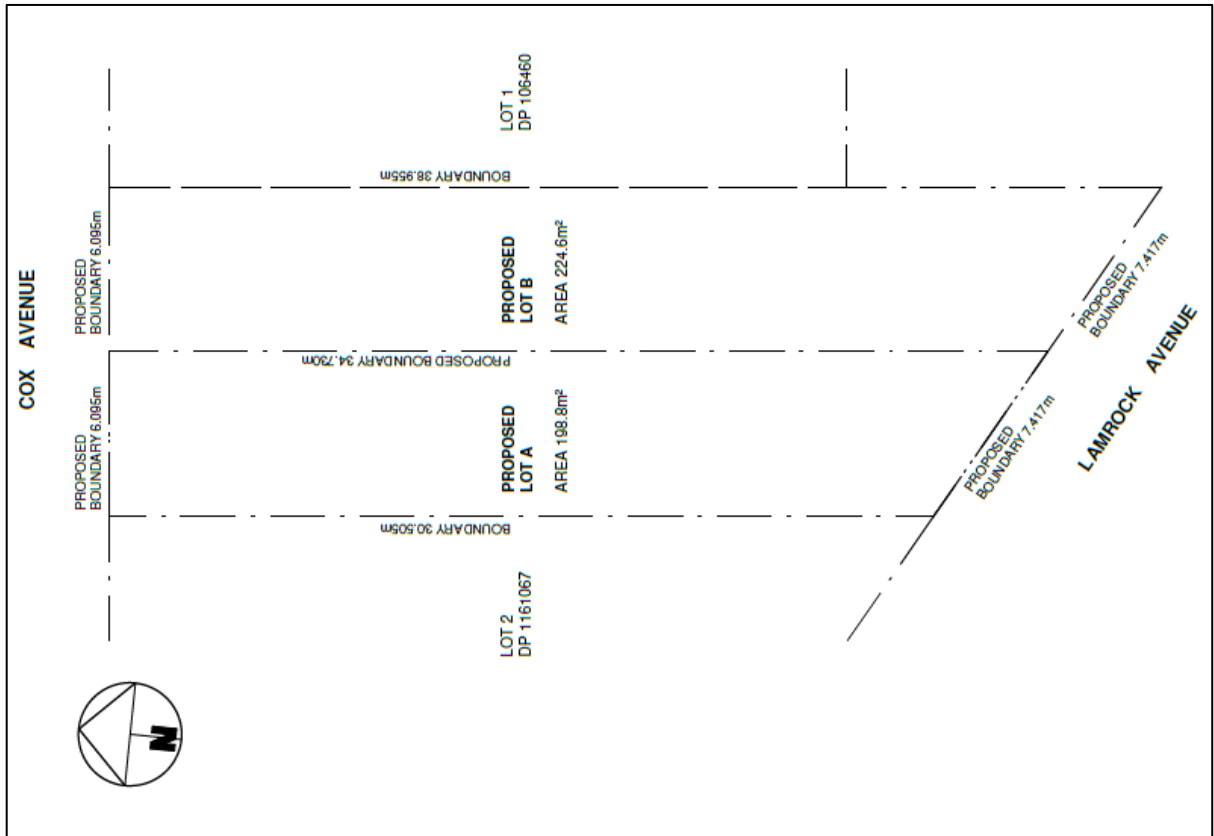


Figure 5: Proposed Torrens Title Subdivision.

**2. ASSESSMENT**

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

**2.1 Planning Instruments and Development Control Plans**

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

**2.1.1 SEPP 55 Remediation of Land**

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

**2.1.2 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)**

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
Part 1 Preliminary		



Provision	Compliance	Comment
1.2 Aims of plan	No	The proposal is inconsistent with the aims of the plan as discussed below.
<b>Part 2 Permitted or prohibited development</b>		
2.6 Subdivision – consent requirements	Yes	The application seeks consent for Torrens title subdivision.
Land Use Table R2: Low Density Residential Zone	Yes	The proposal is defined as a subdivision, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.1 Minimum subdivision lot size <ul style="list-style-type: none"> <li>325m<sup>2</sup></li> </ul>	No	<p>The site has an area of 423.4m<sup>2</sup> and the application proposes Torrens title subdivision that will result in the following lot sizes:</p> <ul style="list-style-type: none"> <li><u>Lot A</u> Proposed: 198.8m<sup>2</sup> Variation: 38.8% (126.2m<sup>2</sup>)</li> <li><u>Lot B</u> Proposed: 224.6m<sup>2</sup> Variation: 30.8% (100.4m<sup>2</sup>)</li> </ul> <p>The applicant has submitted a Clause 4.6 Statement to vary the minimum lot size that is discussed further below.</p>
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <u>Whole Site</u> <ul style="list-style-type: none"> <li>FSR: 0.64:1</li> <li>GFA: 270.976m<sup>2</sup></li> </ul>	N/A	<i>See discussion below.</i>
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the minimum lot size development standard. A detailed discussion of the variation to the development standard is presented below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### **Clause 4.1 - Minimum Subdivision Lot Size and Clause 4.6 - Exceptions to Development Standards**

The application seeks to vary the minimum subdivision lot size in Clause 4.1. The site is subject to a minimum lot size control of 325m<sup>2</sup>. The proposed development has resulting lot sizes and variations as follows:

- Lot A  
Proposed: 198.8m<sup>2</sup>  
Variation: 38.8% (126.2m<sup>2</sup>)
- Lot B  
Proposed: 224.6m<sup>2</sup>  
Variation: 30.8% (100.4m<sup>2</sup>)

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the minimum lot size development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
  - (ii) *The subdivision pattern in the area is inconsistent with lots varying in size, shape and orientation. Development along Lamrock Avenue, Cox Avenue and nearby Sir Thomas Mitchell Road consists of differing low density residential development types including dwelling houses, semi-detached dwellings, dual occupancies and residential flat buildings.*
  - (iii) *The proposed subdivision will not be “incompatible” with what is best described as a varied lot grain, particularly within the immediate street block. In fact, the proposed subdivision will result on lot layouts more consistent with the narrower parcels comprising attached dwelling forms, the subject parcel is presently an anomaly given it is a double width block.*
  - (iv) *The subject site is somewhat of an anomaly with adjoining No. 61 to the west and the 4 parcels to the east (Nos. 28-34) where there are numerous examples of smaller parcels approximately 162m<sup>2</sup> to 227m<sup>2</sup> forming the immediate lot grain to which the proposed subdivision line creates consistency.*
  - (v) *The proposal will not prejudice the future potential of redevelopment on the site or to neighbouring properties, subject to the future planning controls.*
  - (vi) *The proposal will preserve the low density suburban character of the streetscape and desired identity of the area.*



**Figure 6:** Extract from page 22 of the Applicant’s Clause 4.6 Statement.

- (vii) *Given that the site already accommodates an approval for a dual occupancy development, the proposed subdivision will have no impact on built form and consequently will not result in any adverse impacts on the amenity of neighbouring properties. The amenity impacts upon neighbouring properties have already been considered in and approved under DA-405/2019. The subject application includes no physical building works.*
  - (viii) *The proposed development is considered to be entirely consistent with the general objectives of the LEP. The subdivision of the approved dual occupancy is both orderly and economic in that the residential use will remain unchanged and the individual dwellings will continue to provide for the housing needs of the community. Given that the built form on the site has already been approved and awaiting construction, the proposed subdivision is only to implement an appropriate land title for the owner(s).*
  - (ix) *The subdivision of the approved building will not prejudice any anticipated redevelopment of the area and will secure the existing and desired residential development patterns in the locality.*
  - (x) *Any future redevelopment of the site beyond the current approval will result in a similar form to the approved building by virtue of the planning controls that would apply and accordingly, the proposal will preserve the distinctively suburban character of the area reinforcing the desired identity of the area, having no adverse impacts on residential amenity.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The non-compliance does not create any amenity impact on any adjoining properties given the built form on the site has been approved, and the proposed Torrens title subdivision will result in no physical changes to the approved attached dual occupancy.*
  - (ii) *The development will not have an adverse impact on the subdivision pattern of the locality as the subject site sits within an area that displays no predominant subdivision pattern, therefore not being incompatible. It should be noted that the surrounding streetscape is*

characterised by varying development types including detached dwellings, semi-detached dwellings, dual occupancies and older style residential flat buildings whilst the lots differ in size, shape and orientation.

- (iii) The proposed development meets the objectives of the development standard and meets the objectives of the R2 Low Density Residential.
- (iv) There are nearby parcels that are under the minimum lot size per WLEP 2012 where subdivision has been approved by Council. The following table illustrates precedent examples within the R2 zone for subdivision approvals over the last 5 years on undersized parcels. This demonstrates per Wehbe (Way 4) that Council have recognised merit in applying a flexible approach to minimum lot size in certain circumstances;

Table 2: Approved Variations to cl 4.1 (Source: Waverley Council Clause 4.6 Register)			
Address	Date Approved	Extent of Variation	Form of Development
17 Barclay Street, Waverley	29/05/2019	15%	2 semi-detached dwellings with Torrens Title subdivision
8 Jackaman Street, Bondi	18/04/2018	21%	Dual occupancy development (attached) and Torrens Title subdivision
47-53 Bon Accord Avenue, Bondi Junction	12/04/2017	Maximum 45%	Subdivision Only
94 Hasting Parade, North Bondi	26/05/2017	28.9%	Subdivision Only
276 Military Road, Dover Heights	14/07/2017	15%-20%	Two semi-detached dwellings with Torrens Title subdivision
1&2 Mons Street, Vaucluse	25/11/2016	35%	Two attached 2 storey dwellings and Subdivision
64 Lamrock Avenue, Bondi Beach	20/11/2015	38%	Subdivision Only
364 Bronte Road, Bronte	30/11/2015	29%	Dual occupancy and Torrens Title subdivision

**Figure 7:** Extract from page 20 of the Applicant’s Clause 4.6 Statement.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant’s written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

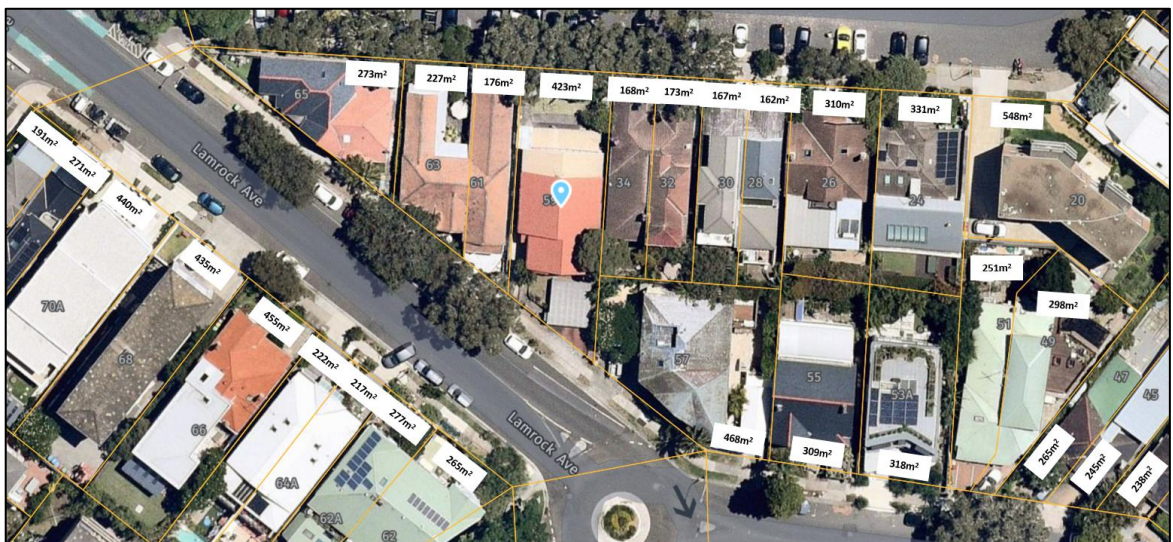
Does the written request adequately address those issues at clause 4.6(3)(a)?

The applicant has referenced the following justification as applicable to the proposal as set out in *Wehbe v Pittwater Council (2007) 156 LGERA 446*:

a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*

However, it is considered that the applicant has not provided adequate reasoning that compliance with the standard is unreasonable or unnecessary in the circumstances of the case as detailed below:

- In response to point (i) of Clause 4.6(3)(a) above, the proposal is not consistent with the objectives of this development standard for reasons discussed below.
- In response to points (ii) and (iii) of Clause 4.6(3)(a) above, it is agreed with the applicant that the subdivision pattern in the area is varied with regards to lot size, shape and orientation. It is also agreed that the proposed subdivision would not be incompatible with the surrounding area.
- In response to points (iii) and (iv) of Clause 4.6(3)(a) above, it is not agreed that the subject site represents an anomaly within the context of surrounding narrower lots as there are other examples of large lots in the immediate area. It is noted that the smaller lots to the east of the subject site (28-34 Cox Avenue) are all examples of semi-detached dwellings with a single site frontage to Cox Avenue that represent a different site context to the subject site that has approval for an attached dual occupancy development with a dual frontage. Therefore, it is not considered that there is a singular predominant pattern of subdivision and any future subdivision should consider the development envisaged on the site.



**Figure 8:** Surrounding lot sizes.

- In response to points (v), (vi), (vii), (viii), (ix) and (x) of Clause 4.6(3)(a) above, the proposed subdivision will increase development potential on the resulting lots with regards to FSR that will impact upon the amenity of neighbouring properties (see FSR discussion below for further commentary). Given the potential for additional significant development on the site as detailed in **Table 1.1** below, it is unlikely that any future development of the site beyond the current approval

would result in a similar form to the approved building and it is considered to be uncertain whether the proposed subdivision will preserve the low density character of the streetscape and locality.

Therefore, it is considered that the proposal does not demonstrate that compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the case.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not provided adequate reasoning that there are sufficient environmental planning grounds to justify contravening the development standard as discussed in detail below:

- In response to point (i) of Clause 4.6(3)(b) above, it is acknowledged that the built form has been approved on site as an attached dual occupancy development however, the increased development potential on site with regards to FSR is likely to create additional amenity impacts upon surrounding properties.
- In response to point (ii) of Clause 4.6(3)(b) above, it is previously stated that there is no predominant subdivision pattern for development in the locality. However, it is considered that development with the appearance of a single dwelling house is situated on larger lot sizes. The approved dual occupancy maintains the appearance of a single dwelling as the design of the building shares the roof pitch. This is evident in **Figure 6** above, whereby development located on the western side of Lamrock Avenue is sited on large lot sizes, similar to the subject site.
- In response to point (iii) of Clause 4.6(3)(b) above, the proposal does not meet the objectives of the development standard or the objectives of the R2 zone for reasons discussed throughout this report.
- In response to point (iv) of Clause 4.6(3)(b) above, the examples provided of previously approved applications that did not comply with Council's minimum subdivision lot size development standard are not adequate reasoning to justify the proposed development. Many of the examples provided sought Torrens title subdivision at their initial DA stage for the dual occupancy development and subsequently had the FSR applicable considered as part of the assessment as 2 torrens lots at that time, in conjunction with the overall scale of their development. When the FSR is assessed for strata versus torrens title subdivision, the variance numerically (with allowable GFA) can be significant (see discussion for Clause 4.4A below relating to FSR). Therefore, it is worthy to note the following background to those examples:
  - **17 Barclay Street, WAVERLEY:** The approved development application (**DA-206/2018**) involved demolition of the existing dwelling and construction of two new semi-detached dwellings with Torrens title subdivision. Despite the non-compliance with the minimum subdivision lot size, Torrens title subdivision was proposed with the subject application therefore, resulting development potential could have been assessed and anticipated at the time. The development also maintains the appearance of two separate dwellings. Furthermore, this site is not located in close proximity to the subject site and has a different context to the proposed development.
  - **8 Jackaman Street, BONDI:** Similar to the above, the approved development application (**DA-142/2017**) for the construction of a dual occupancy development involved Torrens title subdivision at the time of assessment and the development maintained the appearance of two separate dwellings.

- **47-53 Bon Accord Avenue, BONDI JUNCTION:** The approved application (**DA-477/2016**) for the subdivision of this land into four residential allotments was considered to result in lot sizes that were consistent with lot sizes in the immediate locality, being the Woodstock Conservation Area. This locality represents a distinct pattern of small lot sizes and terrace housing that is not consistent with the context of the subject site.
- **94 Hastings Parade, NORTH BONDI:** Similar to the above, the approved development application (**DA-395/2015**) for the construction of a dual occupancy development involved Torrens title subdivision at the time of assessment. Furthermore, this site is not located in close proximity to the subject site and has a different context to the proposed development.
- **276 Military Road, DOVER HEIGHTS:** Similar to the above, the approved development application (**DA-78/2017**) for the construction of two semi-detached dwellings involved Torrens title subdivision at the time of assessment. Furthermore, this site is not located in close proximity to the subject site and has a different context to the proposed development.
- **1 Mons Street, VAUCLUSE:** Similar to the above, the approved development application (**DA-513/2014**) for the demolition of two strata title dwellings and construction two attached dwellings involved Torrens title subdivision at the time of assessment. Furthermore, this site is not located in close proximity to the subject site and has a different context to the proposed development.
- **64 Lamrock Avenue, BONDI BEACH:** This application (**DA-327/2015**) approved Torrens title subdivision of an approved dual occupancy development resulted in a breach of the minimum subdivision lot size development standard by 32%. Despite having similar characteristics to the subject application, it is not suitable to compare the subject development to this development at 64 Lamrock Avenue as the original application for the construction of a dual occupancy was approved in 2013 (eight years ago), and the application for subdivision in 2015 (six years ago). Since this time, Council's controls have changed. Furthermore, it is reiterated that there is no distinguishable subdivision pattern in the locality.
- **364 Bronte Road, BRONTE:** Similar to the above, the approved development application (**DA-181/2015**) for the construction of a dual occupancy development involved Torrens title subdivision at the time of assessment.

Therefore, adequate reasoning has not been provided to demonstrate that there are sufficient environmental planning grounds to justify contravention of the development standard in the circumstances of this case.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out as discussed in detail above.

Conclusion

For the reasons provided above the requested variation to the minimum lot size development standard is not supported, while the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley Local Environmental Plan 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of the minimum lot size development standard and the R2: Low Density Residential Zone.

#### Clause 4.4A Floor Space Ratio

The application proposes Torrens title subdivision only however, the proposed subdivision results in a change to the applicable FSR controls on the site that would alter the development potential of the approved dual occupancy development under **DA-405/2019**. It is noted that **DA-405/2019** has an approved FSR of 0.64:1 that is currently compliant and consistent with the current controls. A summary of the change in FSR and GFA is provided in the following table:

Table 1.1 – Development Potential of Resulting Lots		
	Proposed Lot A (198.8m <sup>2</sup> )	Proposed Lot B (224.6m <sup>2</sup> )
FSR Control	0.886:1	0.858:1
GFA Allowed	176.2m <sup>2</sup>	192.7m <sup>2</sup>
GFA as Approved (strata)	135.49m <sup>2</sup>	135.49m <sup>2</sup>
Development Potential (if Torrens title subdivided)	+40.71m <sup>2</sup>	+57.21m <sup>2</sup>

As demonstrated in the table above, converting the approved strata subdivision of the attached dual occupancy development to a Torrens title subdivision as proposed by this application, each resulting lot will have the potential for **significant** further development that was not envisaged in the assessment of the original application for an attached dual occupancy development on the site. Therefore, the proposal is inconsistent with the existing development consent and is not supported.

#### 2.1.3 Waverley Development Control Plan 2012 (Amendment 9)

The proposal is defined as a “Subdivision” in the LEP. The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

##### Subdivision

The application proposes Torrens title subdivision of the approved dual occupancy development on the site and requires an assessment against the relevant objectives and controls of part B13 Subdivision in WDCP 2012. The proposal is considered to be inconsistent with the relevant objectives and controls as described below:

- The proposal is non-compliant with Objective (g) as compliance with other controls of WDCP 2012 relevant to the dual occupancy development is not met.
  - The original assessment of the dual occupancy development deemed the separate driveway crossings acceptable on merit, despite Council’s controls specifying that dual occupancy development is to provide a single vehicle crossing to the street. Furthermore, the dual occupancy relies on excavation for an integrated basement level and plant/storage room for both dwellings. The proposed Torrens title subdivision would therefore result in non-compliance with control (I) of Part B14 Excavation in WDCP 2012



whereby excavation to the proposed common boundary between Lot A and Lot B will result. Therefore, the proposal results in non-compliance with this control and is inconsistent with the existing development consent.

- The original assessment of the dual occupancy development deemed the size of the lot acceptable on merit to accommodate the detached dual occupancy, despite non-compliance with the minimum lot size requirement of 450m<sup>2</sup> as specified by control (a)(i) in section 2.15 Dual Occupancy Development of Part C2 in WDCP 2012. The original application was marginally deficient in terms of area by 27m<sup>2</sup> or 6% but was acceptable as the proposal was designed to appear as a single dwelling from the street, sharing a pitched roof, therefore complying with control (b) of this section. The proposed Torrens Title subdivision further decreases the lot sizes of the approved dual occupancy development and therefore increases non-compliance with control (a)(i) in this section. Furthermore, given that the proposal appears as a single dwelling from the streetscape, the proposed Torrens title subdivision is inconsistent with the existing development consent.
- The original dual occupancy development proposed 34% of the open space within the front setback of the property as landscaped area. This did not comply with control (g) of section 2.9 Landscaping and Open Space of Part C2 in WDCP 2012 but was considered to be acceptable on merit as all available area that could be landscaped was provided as landscaped area. Despite this, the proposed Torrens title subdivision will result in further non-compliance with this control as the following landscaped area within the front setback would result:
  - Lot A: 8.2m<sup>2</sup> (30.6%)
  - Lot B: 16.8m<sup>2</sup> (31.9%)
- The proposal is non-compliant with objective (i) as the proposed Torrens title subdivision would allow for significant further development on both lots that is likely to have adverse amenity impact upon surrounding properties that was not envisaged with the assessment of the original application for an attached dual occupancy development. *See comments under FSR discussion for further details.*
- The proposal is non-compliant with control (a) as the proposed lots do not comply with the minimum lot size requirement as specified in Clause 4.1 of WLEP 2012. *See discussion above for further comments.*

Given the above, the proposal is inconsistent with the objectives and controls of Council's requirements for subdivision and the proposal is therefore inconsistent with the existing development consent.

## **2.2 Other Impacts of the Development**

It is considered that the proposal will have significant detrimental effect relating to environmental, social or economic impacts on the locality as discussed throughout this report.

## **2.3 Suitability of the Site for the Development**

The site is not considered to be suitable for the proposed development for reasons discussed throughout this report.

## **2.4 Any Submissions**

The application was not notified in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

## **2.5 Public Interest**

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## **3. REFERRALS**

### **3.1 Land Information/GIS (Information Management & Technology)**

The application was referred to Council's GIS Analyst who recommended conditions of consent with regards to street number allocations, should the application be approved.

## **4. SUMMARY**

The application seeks consent for two (2) lot Torrens title subdivision of the approved dual occupancy development on the site. Due to the nature of the proposed works, the application was not required to be notified. The proposal results in the creation of two lots that are significantly non-compliant with Council's minimum lot size requirement as specified by clause 4.1 of WLEP 2012. Furthermore, the proposed subdivision would result in greater development potential on each resulting lot, that was not envisaged with the assessment of the original application for an attached dual occupancy development with strata subdivision. The proposal is also non-compliant with Council's objectives and controls for subdivision as specified in WDCP 2012 that render the proposal incompatible with the existing development consent. Therefore, the proposal is not supported and is recommended to be refused.

### **DBU Decision**

The application and assessment report was reviewed by the DBU at the meeting on 15 December 2020 and the DBU determined:

*The application is not acceptable and should be refused for the reasons in Appendix A.*

DBU members: *M Reid, A Rossi, B McNamara, E Finnegan*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the Development Application be **REFUSED** by the Waverley Local Planning Panel for the reasons contained in Appendix A:

**Report prepared by:**



Judith Elijah  
**Development Assessment Planner**

**Date:** 18 January 2021

**Application reviewed and agreed on behalf of  
the Development and Building Unit by:**



Angela Rossi  
**Manager, Development Assessment (Central)**

**Date:** 22 January 2021

**Reason for referral to Local Planning Panel:**

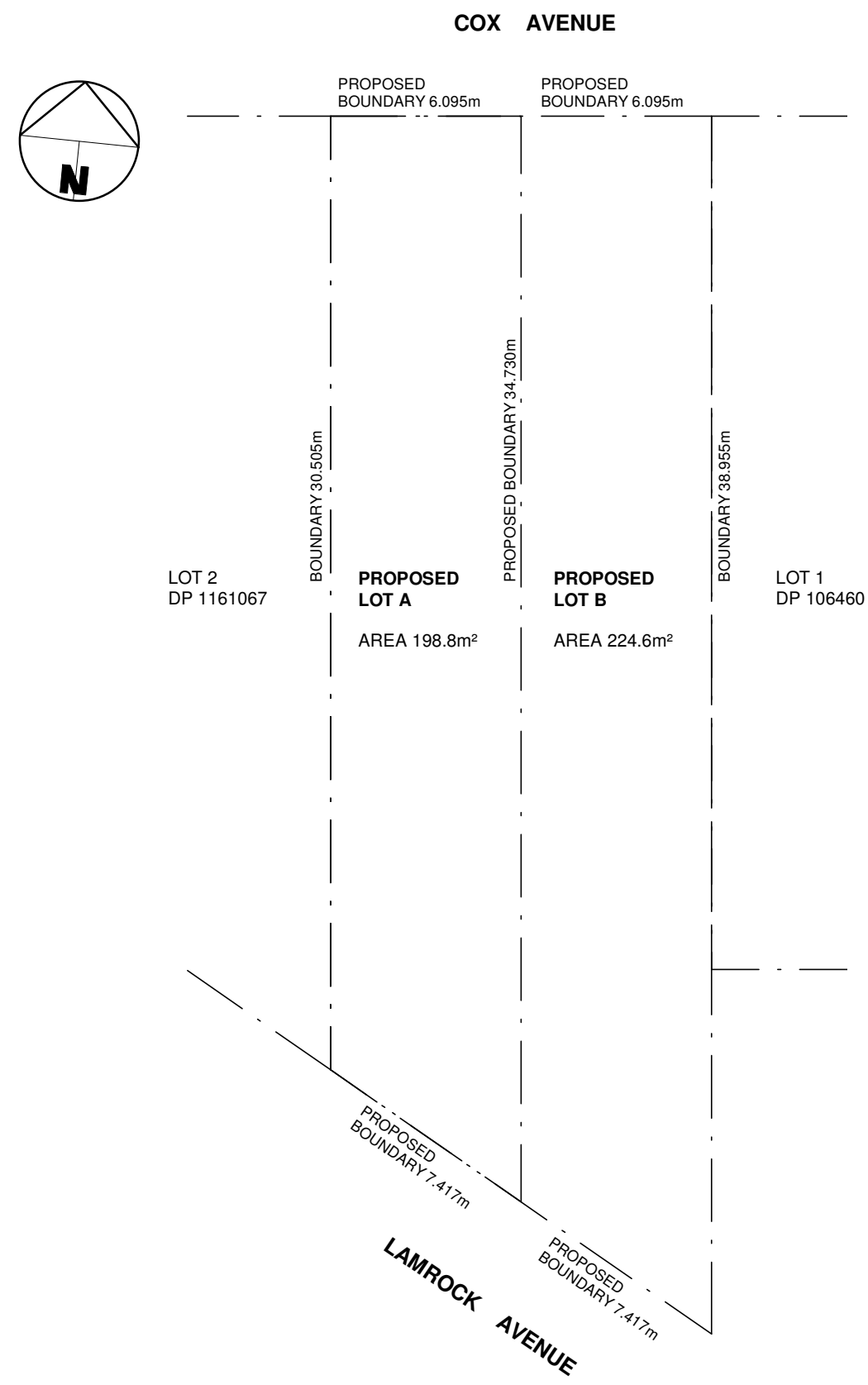
- 1 Departure from any development standard in an EPI by more than 10%

## **APPENDIX A – REASONS FOR REFUSAL**

Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design on amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan (WLEP) 2012, in particular, the following provisions:
  - a. Clause 4.1(1)(a) and (b) and (3) as the lots do not meet the minimum subdivision lot size requirement and will enable future development that will impact upon the amenity of neighbouring properties.
  - b. Clause 4.4(1) as the development results in significant increase in development potential on the resulting lots that was not envisaged with the assessment of the previous application for an attached dual occupancy development.
  - c. Clause 4.6(4)(a)(i) and (ii) as the proposal is inconsistent with the objectives of the minimum subdivision lot size development standard and the objectives of R2: Low Density Residential Zone.
3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B13 – Subdivision
    - i. Specifically, objective (g), as the application results in non-compliance with other controls of WDCP 2012 being excavation, attached dual occupancy minimum lot size and landscaped area within the front setback, rendering the subject application inconsistent with the existing development consent.
    - ii. Specifically, objective (i), as the application allows for further significant development on both lots that was not envisaged with the assessment of the previous application for a dual occupancy development.
    - iii. Specifically, control (a), as the application does not comply with the minimum lot size requirement as specified in Clause 4.1 of WLEP 2012.
4. The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an adverse environmental impact in the locality as it will result in overdevelopment of the subject site and would adversely impact upon the amenity of the locality and surrounding built environment.
5. The proposal is not considered to be in the public interest *for the reasons outlined above*, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.

RECEIVED  
Waverley Council  
Application No: DA-414/2020  
Date Received: 03/12/2020



2 Proposed Torrens Title Subdivision Plan  
1 : 200

Issue	Description	Date	Chk	Auth
1	ISSUED FOR DEVELOPMENT APPLICATION	02/11/2020	PL	PL



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-409/2019/1
<b>Site address</b>	144 Warners Avenue, BONDI BEACH
<b>Proposal</b>	Review of refusal of alterations and additions to a residential flat building including attic addition.
<b>Date of lodgement</b>	7 August 2020
<b>Owner</b>	Proprietors of Strata Plan 12465
<b>Applicant</b>	CSA Architects Pty Ltd
<b>Submissions</b>	Three (3)
<b>Cost of works</b>	\$450,000
<b>Issues</b>	Nil
<b>Recommendation</b>	That the application be <b>APPROVED</b>

Site Map



## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 28 February 2020, 22 and 29 October 2020.

The site is identified as SP 12465, known as 144 Warners Avenue, BONDI BEACH. It is located on the north-eastern side of the street.

The site is rectangular in shape with a north-eastern rear boundary measuring 12.19m, south-eastern side boundary measuring 28.025m, south-western front boundary measuring 12.19m and north-western side boundary measuring 27.76m. The site has an area of 340m<sup>2</sup> and falls from the rear towards the front of the site.

The site is occupied by *Lexington*, a three storey Inter War residential flat building over ground floor car parking. The building is located in and is contributory to the Campbell Parade Bondi Beach Conservation Area listed in WLEP 2012 and forms part of a notable streetscape of Inter War residential flat buildings. The site is also located within the Bondi Beachfront Character Area. The existing building comprises of 12 units, 4 per level.

The subject site is adjoined by residential flat buildings at the western side boundary and northern rear boundary and a dwelling house (with recent DA approval for significant alterations and additions) adjoining the eastern side boundary (146 Warners Avenue).



**Figure 1:** Subject site frontage to Warners Avenue (centre of image – beige building).

## 1.2 Relevant History

### Original Application

The original development application sought consent for alterations and additions to the existing residential flat building including attic bedrooms and storage. The application was reviewed and deemed unsatisfactory by the Development Building Unit (DBU), being an internal panel of planners and managers, as the proposal raised significant concerns regarding heritage, building height and Floor Space Ratio (FSR) non-compliance and streetscape impacts as a result of the attic addition/dormers. Concern was not raised with regard to the works proposed throughout the other levels of the building. The applicant was emailed on 1 April 2020 outlining the above reasons for Council's non-support.

Following this, the applicant submitted draft amended plans for feedback on 2 April 2020 that reduced the size of the dormers. These amended plans were reviewed by the DBU on 7 April 2020 and the proposal was still unsatisfactory, and it was reiterated that any new floor space should be contained within the existing roof form. The Applicant was advised to withdraw the application, or it would be recommended for refusal to the WLPP.

On 29 April 2020, the WLPP endorsed Council's recommendation for refusal and the application was refused on the following basis:

1. *The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.*
2. *The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:*
  - a. *Clause 4.3(1)(a) and (d) and (2) as the proposal will exceed the maximum building height which will result in unreasonable amenity impacts and be incompatible with the character of the locality.*
  - b. *Clause 4.4(1)(b) to (d) and (2) as the proposal will further exceed the maximum floor space ratio permitted for the site and have unacceptable impacts.*
  - c. *Clause 4.6(4)(a)(i) and (ii) as the proposal is inconsistent with the objectives of the building height and floor space ratio development standards and the objectives of the R3: Medium Density Residential Zone.*
  - d. *Clause 5.10(1)(a) and (b) as the proposal does not conserve the environmental heritage of Waverley, adversely impacts upon the Campbell Parade Bondi Beach Conservation Area and results in loss of original fabric and setting of the building within the streetscape.*
3. *The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:*
  - a. *Part B6 – Stormwater*



- i. *Clause 6.1 – Stormwater Management and WSUD, as the development is non-compliant with the Waverley Water Management Technical Manual.*
- b. *Part B7 – Accessibility and Adaptability*
  - i. *Clause 7.1 - Accessibility, as the development is non-compliant with Section D of the BCA with regards to access and egress issues pertaining to escape and construction of exits.*
- c. *Part B9 – Heritage*
  - i. *General Objectives, specifically objective (c) as no Heritage Impact Statement has been submitted with the application to appropriately inform the assessment of development.*
  - ii. *General Objectives, specifically objectives (e) and (f) as the development adversely impacts upon the character of the Heritage Conservation Area.*
  - iii. *Clause 9.1.2 – Heritage Conservation Areas, as the existing building is contributory to the heritage significance of the Heritage Conservation Area and the new building works are not sympathetic to the form and scale of development within the conservation area.*
  - iv. *Clause 9.4 – Heritage Conservation Areas, specifically objectives (a)-(c) as the development does not respect the original built form of the contributory item and adversely impacts upon the heritage significance of the conservation area.*
  - v. *Clause 9.6 – Character and Streetscape, specifically objective (b), Clause 9.6.1 - All Development, specifically control (a) and Clause 9.6.2 Heritage Items and Contributory buildings, specifically control (a), as the alterations and additions do not respect the contributory features and characteristics of the existing building and streetscape and the development dominates the roof form and results in a loss of original fabric and materials.*
  - vi. *Clause 9.8 – Scale and Proportion, specifically objectives (a) and (c) and Clause 9.8.1 Heritage Items and Contributory Buildings, specifically controls (a) and (b) as the development dominates the roof of the existing building and is of inappropriate scale and proportions.*
  - vii. *Clause 9.9 – Architectural Style, specifically objective (c) as the replacement of the existing Marseilles terra cotta roof tile further detracts from the contributory value of the building to the conservation area.*
  - viii. *Clause 9.10 – Materials and Colour, specifically objective (a) and Clause 9.10.1 Heritage Items and Contributory Buildings, specifically controls (d) and (e), as the proposed roofing materials are not characteristic of the conservation area.*
  - ix. *Clause 9.11 – Roofs and Chimneys, specifically objectives (a) and (b), and Clause 9.11.1 Heritage Items and Contributory Items, specifically controls (a) and (e)-(h) as the attic level is not wholly contained within the existing roof form, the dormers are not in proportion with the existing roof and the original roof is not retained as viewed from the streetscape.*

d. *Part B12 – Design Excellence*

- i. *Clause 12.1 - Design, specifically objectives (a) and (d) and controls (a)-(c) and (e) as the development does not positively contribute to the overall urban design quality of Waverley.*
- ii. *Clause 12.2 - Context Analysis, specifically objectives (a)-(d) as the development is not an appropriate design response.*

e. *Part C1 – Special Character Areas*

- i. *Clause 1.2 North Bondi, specifically desired future character objective (c) and controls (e) and (f) as the development dominates the existing roof and the replacement of the existing roof tiles with metal roofing adversely impacts upon the integrity of the existing roof and the contributory value of the building to the heritage conservation area.*

f. *Part C3 – Medium Density Residential Development*

- i. *Clause 3.2 - Height, specifically objectives (a) and (b) and controls (a) and (c), as the attic level additions exceed the maximum building height and FSR development standards and causes adverse bulk and scale impacts upon the existing building and character of the locality.*
- ii. *Clause 3.3.2 - Side and Rear Setbacks, specifically objective (b) and control (a) as the balconies at the attic level encroach the rear setback and result in adverse amenity impacts to surrounding properties.*
- iii. *Clause 3.4 - Length and Depth of Buildings, specifically objective (a) as there are no other examples of attic additions similar to the development in the immediate streetscape context.*
- iv. *Clause 3.5 – Building Design and Streetscape, specifically objectives (a)-(f) and controls (a)-(c) and (e) as the development is not of a high design standard and diminishes the contributory value of the building in the conservation area and streetscape. The development is incompatible with the existing building and is unsympathetic to the streetscape and overall appearance of the building.*
- v. *Clause 3.6 – Attic and Roof Design, specifically objectives (b) and (c) and controls (a), (b), (d), (e), (g), and (i) as the attic level is not wholly contained within the existing pitched roof form and the dormers are excessive in bulk and dominate the existing roof structure and streetscape.*
- vi. *Clause 3.11 – Private Open Space, specifically objectives (d) and (f) and Clause 3.11.2 – Balconies/Decks, specifically controls (a) and (f) as the proposal does not maintain privacy for surrounding properties and is not well integrated into the overall architectural form and detail of the building.*
- vii. *Clause 3.14 – Views and View Sharing, specifically objective (a) and controls (b), (f) and (g) as a detailed view loss analysis has not been submitted with the application and the*

*bulk of the roof form is likely to result in view loss impacts from private and communal open space areas of surrounding properties at the rear.*

- viii. *Clause 3.15 – Visual Privacy and Security, specifically objectives (a) and (b) as the proposal does not maintain visual privacy of surrounding properties.*
  - ix. *Clause 3.22 – Interwar Flat Buildings, specifically objectives (a)-(d), Clause 3.22.1 – General, specifically controls (a)-(g), (k), (l) and (n)-(p) as the proposal dominates the existing building and does not preserve the character of the existing building or the streetscape.*
- g. *Part E2 – Bondi Beachfront Area*
- i. *Clause 2.1.3 – Built Form, specifically objective (a) and controls (a) and (d) as the development does not complement the scale and height of existing buildings and encroaches into the rear setback.*
  - ii. *Clause 2.1.4 – Roofs, specifically objectives (a), (b) and (d) and control (a) as the development involves the construction of dormers and balconies to create an attic level that substantially alters the roofscape and contributory value of this building within the conservation area.*
  - iii. *Clause 2.1.5 – Views, specifically objectives (b) and (c) and control (b) as the development is likely to cause view loss.*
  - iv. *Clause 2.1.6 – Heritage Conservation, specifically objective (a) and controls (e) and (f) as the attic addition is not contained within the existing roof form.*
  - v. *Clause 2.2.4 – Character Areas - Campbell Parade North, specifically desired future character objective (c) and built form controls (g)(ii) and (g)(iv) as the development is inconsistent with the existing character of the area.*
4. *The proposal does not satisfy section 4.15 (1)(a)(iv) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy Schedule 1, Part 1 of the Environmental Planning and Assessment Regulation 2000, as insufficient documentation has been provided to properly assess the application, including but not limited to:*
- a. *Heritage Impact Statement;*
  - b. *Detailed View Loss Analysis; and*
  - c. *BCA/Fire Safety Upgrade Report.*
5. *The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an adverse environmental impact in the locality as it represents an overdevelopment of the subject site, is excessive in terms of bulk and scale, undesirable and unacceptable impact on the streetscape, and would adversely impact upon the amenity of the locality and surrounding built environment.*
6. *The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is excessive in bulk and scale and is therefore considered unsuitable for the site.*

7. *The proposal is not considered to be in the public interest for the reasons outlined above, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.*

#### Subject Application

- **17 November 2020** Following a preliminary review of the review application and completion of view loss inspections from surrounding properties, the application was considered unacceptable by the DBU as the proposal did not demonstrate that there were sufficient environmental planning grounds to justify the works above the height limit (and FSR control). It was also determined that the development would set an undesirable precedence for other residential flat buildings on Warners Avenue.
- **26 November 2020** The Applicant submitted draft amended plans for feedback that deleted the dormers and balconies at the attic level. This reduced the size of the space proposed within the attic level and allowed for the works to be contained within the existing roof form. Skylights were proposed to allow light to the attic space. The amendments appeared to reflect Council's comments and alleviate concerns regarding view and privacy impacts. The DBU supported the amendments.
- **11 December 2020** The applicant lodged amended plans and documentation and the following assessment is based on the amended plans submitted.

### **1.3 Proposal**

The application seeks to review WLPP's decision relating to the refusal of the proposed alterations and additions to the residential flat building including an attic addition. The plans to be assessed with the subject review application differ from the originally determined plans as described below.

#### Basement Level

No change to previously refused works to the basement level as follows:

- Infill of void/balcony area at the south-eastern elevation to construct a new store room for Unit 8 located on the first floor level.
- Reconfiguration of the existing garage for Unit 3 and laundry to allow for bicycle parking.
- Construction of a new opening on the south-eastern elevation for the construction of a new storeroom for Unit 4.

#### Ground Floor Level

No change to previously refused works to the ground floor level as follows:

- Infill of existing void area at the south-eastern elevation to and construction of a new external door for a new storeroom for Unit 8 above.

#### First Floor Level

No change to previously refused works to the first floor level as follows:

- Alterations and additions to Unit 7 to construct an additional bedroom and works to the kitchen and dining room.

### Second Floor Level

No change to the previously refused works to the second floor level as follows:

- Alterations and additions to Units 1, 2, 3 and 4 for the construction of internal staircases to lead to the proposed attic level (see below).

However, the proposed works to Unit 3 for alterations and additions to Unit 3 to construct a new room and bathroom have increased the dimensions of the proposed new room from a depth of 3.564m to 3.744m.

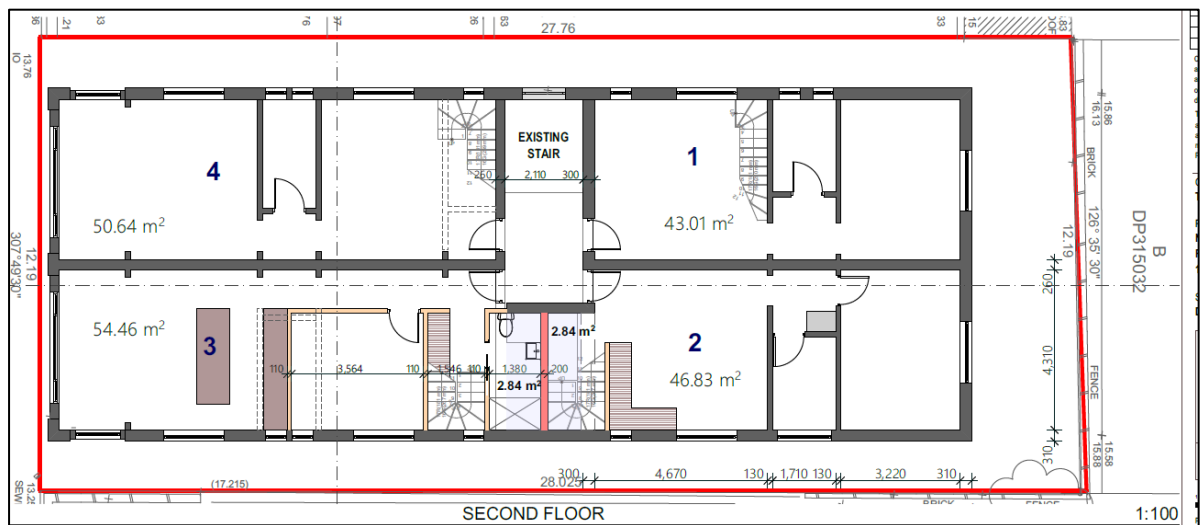


Figure 3: Refused second floor plan.

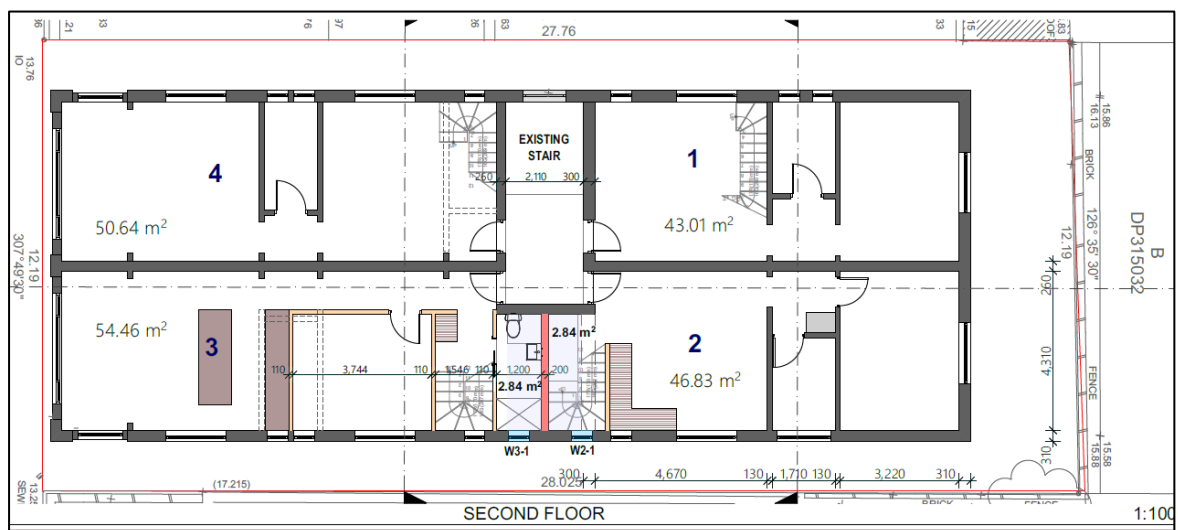


Figure 4: Proposed second floor plan.

## Proposed Attic Level and Roof

The current application seeks to construct an attic level whereby the existing upper level units (units 1, 2, 3 and 4) will extend over 2 levels as originally refused. However, the proposed works differ from the original refusal as follows:

Originally Refused	Currently Proposed
<ul style="list-style-type: none"> <li>Construction of four (4) bedrooms with ensuites.</li> </ul>	<ul style="list-style-type: none"> <li>Construction of four (4) study/office spaces with bathrooms and storage space.</li> </ul>
<ul style="list-style-type: none"> <li>Cut into existing roof for construction of four (4) dormers to accommodate the proposed works.</li> </ul>	<ul style="list-style-type: none"> <li>Installation of a total eight (8) skylights in total upon the existing roof form. New works to be contained within the existing roof form.</li> </ul>
<ul style="list-style-type: none"> <li>Construction of four (4) balconies off the proposed bedrooms at the front and rear of the building.</li> </ul>	<ul style="list-style-type: none"> <li>No balconies proposed.</li> </ul>
<ul style="list-style-type: none"> <li>Additional GFA provided to each unit as follows:                             <ul style="list-style-type: none"> <li>Unit 1: 25.51m<sup>2</sup></li> <li>Unit 2: 25.51m<sup>2</sup></li> <li>Unit 3: 21.95m<sup>2</sup></li> <li>Unit 4: 21.95m<sup>2</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Additional GFA provided to each unit as follows:                             <ul style="list-style-type: none"> <li>Unit 1: 12.6m<sup>2</sup></li> <li>Unit 2: 13.99m<sup>2</sup></li> <li>Unit 3: 12.4m<sup>2</sup></li> <li>Unit 4: 12.07m<sup>2</sup></li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>Replacement of existing roof tiles with Colorbond Ultra metal roofing.</li> </ul>	<ul style="list-style-type: none"> <li>Existing roof retained and skylights inserted</li> </ul>

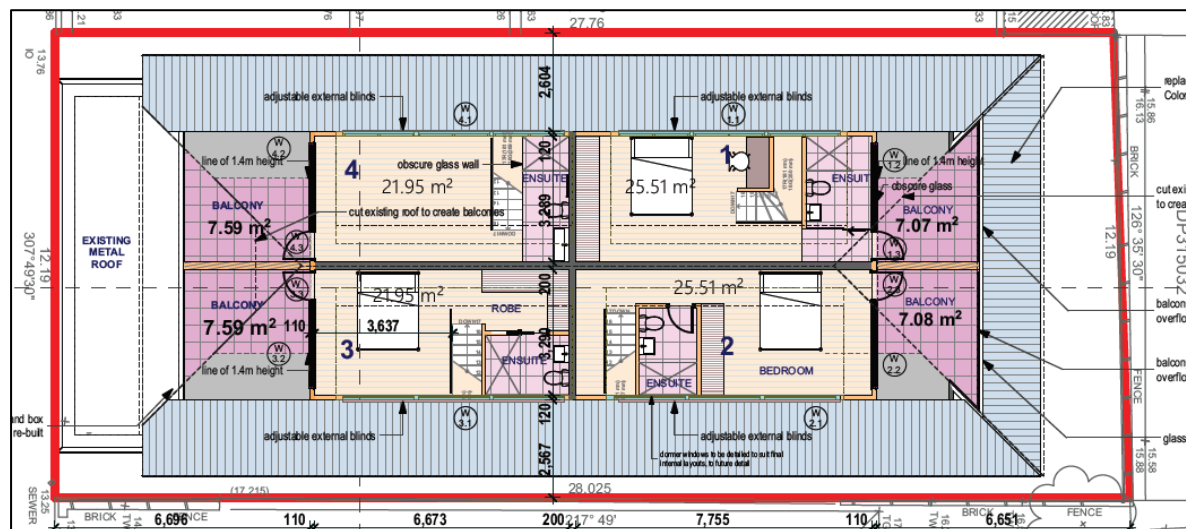


Figure 5: Refused attic plan.

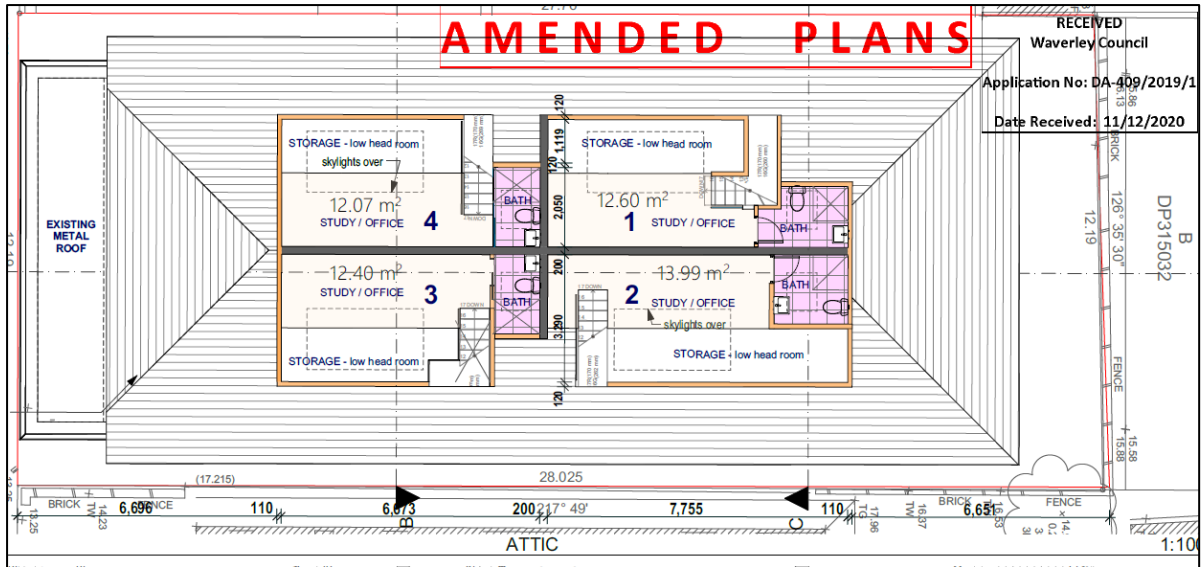


Figure 6: Proposed attic plan.

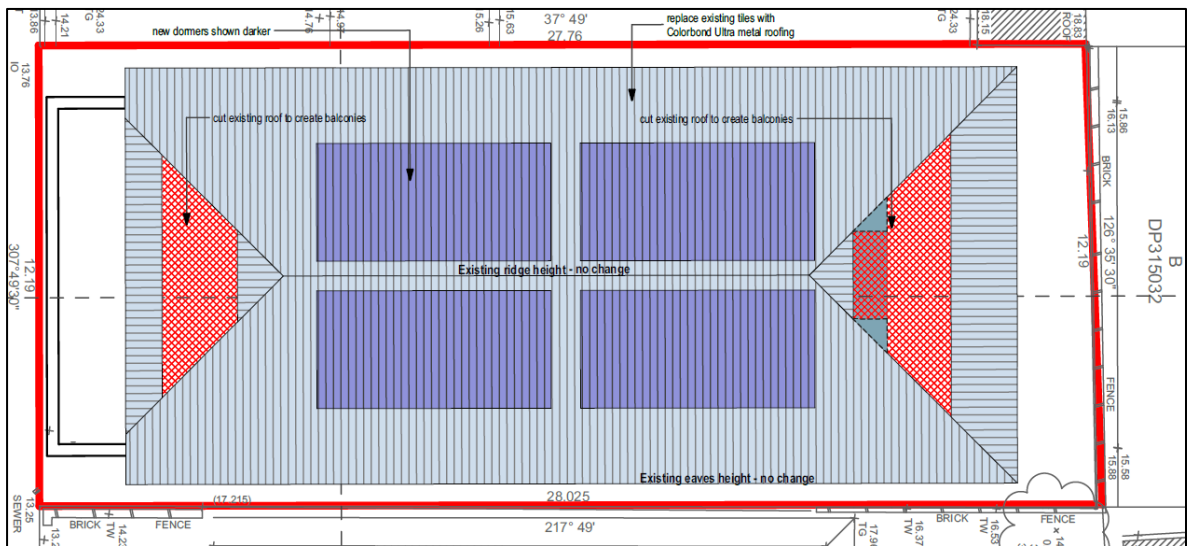


Figure 7: Refused roof plan.

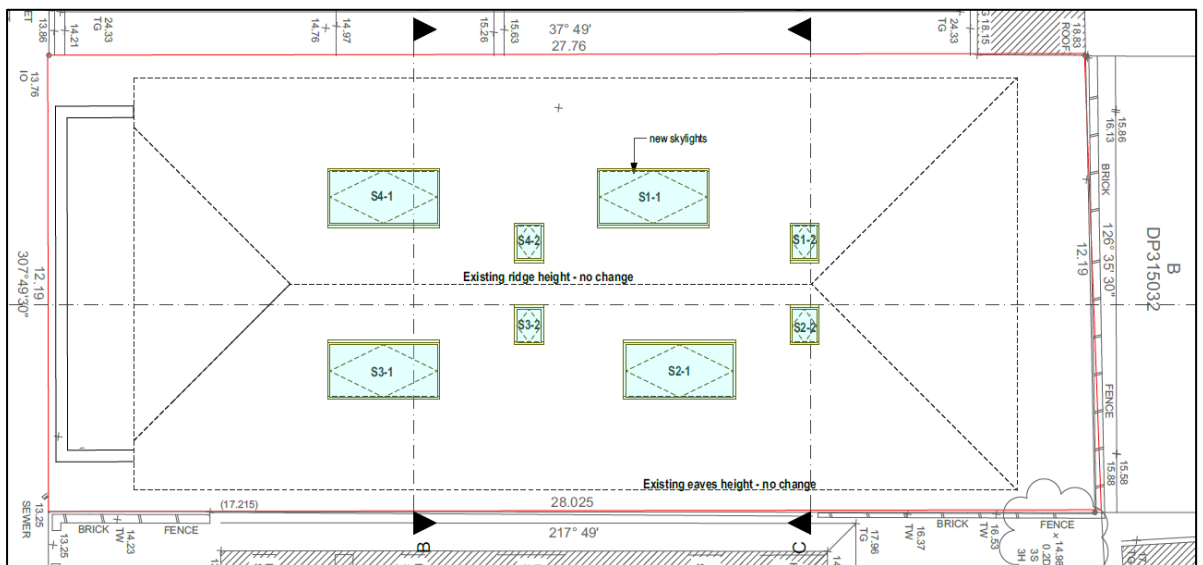


Figure 8: Proposed roof plan.

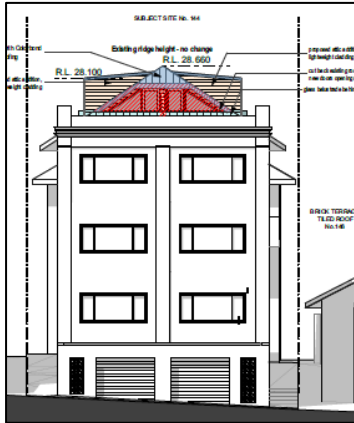


Figure 9: Refused front elevation.

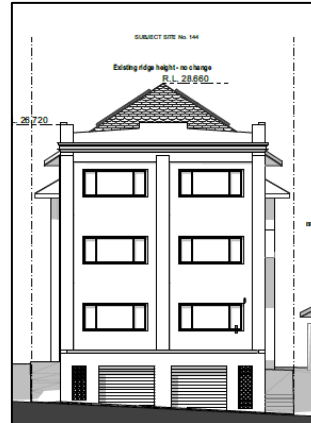


Figure 10: Proposed front elevation.

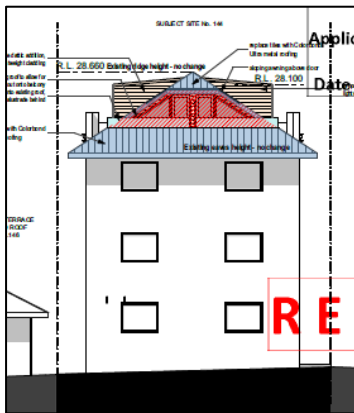


Figure 11: Refused rear elevation.

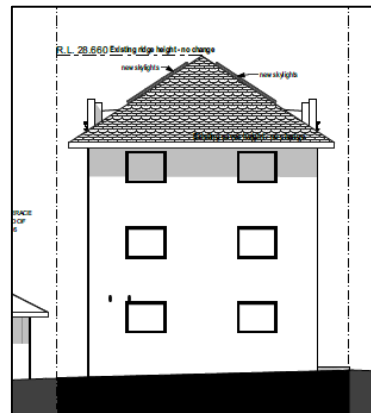


Figure 12: Proposed rear elevation.

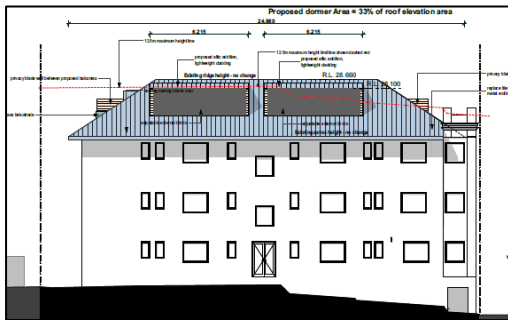


Figure 13: Refused north-west (side) elevation.

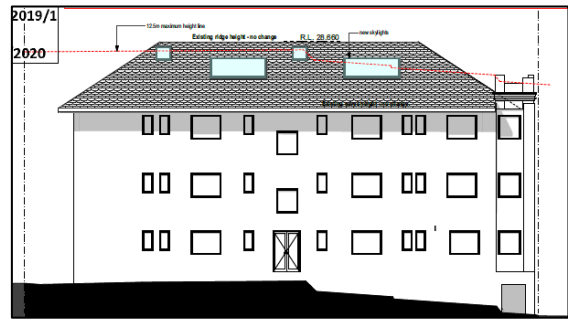


Figure 14: Proposed north-west (side) elevation.

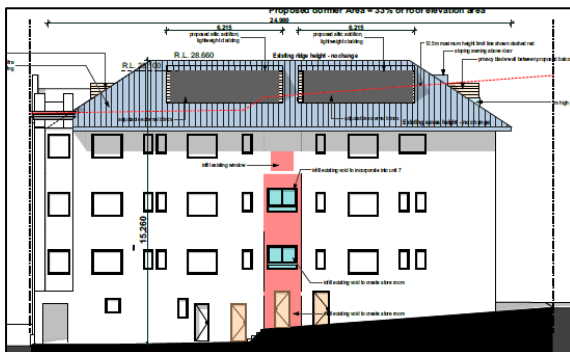


Figure 15: Refused south-east (side) elevation.

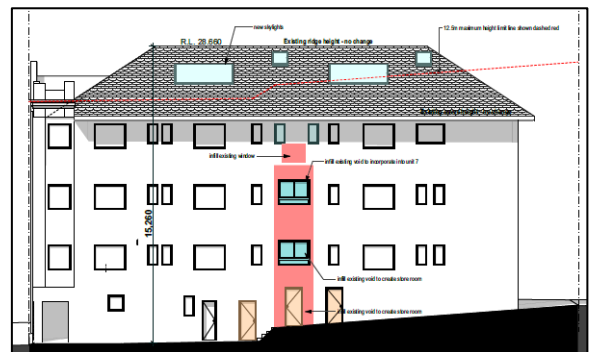


Figure 16: Proposed south-east (side) elevation.



## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

The application has been submitted as a s8.3 Review application of the previous decision. The original application for alterations and additions to a residential flat building including attic addition was refused on 29 April 2020 by the WLPP.

### 2.1 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented.

#### 2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

#### 2.1.3 SEPP 65 Design Quality of Residential Apartment Development

The proposal does not involve the substantial redevelopment or refurbishment of the existing residential flat building. Gross Floor Area is increased with the proposal however, the works are largely contained within the existing building footprint. Therefore, the provisions of SEPP 65 are not applicable to the development.

#### 2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 Zone	Yes	The proposal involves alterations and additions to a residential flat building, which is permitted with consent in the R3: Medium Density Residential Zone.

Provision	Compliance	Comment
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>12.5m</li> </ul>	No	The maximum height of the proposed works is 14.26m for the construction of a skylight that is non-compliant by 1.76m (14.08%).
4.4 Floor Space Ratio <ul style="list-style-type: none"> <li>0.9:1</li> <li>306.963m<sup>2</sup></li> <li>Site Area: 341.07m<sup>2</sup></li> </ul>	No	Existing GFA: 576.75m <sup>2</sup> Existing FSR: 1.69:1 Existing Variation: 235.68m <sup>2</sup> (87.89%) Proposed GFA: 667.98m <sup>2</sup> Proposed FSR: 1.96:1 Proposed Variation: 361.017m <sup>2</sup> (117.6%)
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the building height and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	<i>See discussion below.</i>

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### **Clause 4.3 Building Height & Clause 4.6 Exceptions to Development Standards**

The application seeks to vary the building height development standard in Clause 4.3. The site is subject to a maximum building height control of 12.5m. The existing building has a height of 15.26m and the proposed works are to have a maximum building height of 14.26m, exceeding the standard by 1.76m equating to a 14.08% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

#### Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the building height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in one or more of the ways offered by Wehbe v Pittwater Council (2007) NSWLEC 827 Preston CJ. In this particular case, consistent with that decision, it can be*

*demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

- (ii) The building preserves the environmental amenity of public spaces and the sharing of views despite the variation to the height limit as the area of height breach is not readily visible from the public domain and there are no view impacts from public places associated with the breach.*
  - (iii) In terms of the preservation of the environmental amenity of neighbouring properties, there is no additional overshadowing and no additional visual bulk caused by the skylights.*
  - (iv) There can be no view loss from the skylights, being flush-mounted to the existing roof. The previous plans included dormer windows (now deleted) and those extensions caused only marginal interruption of oblique views. That impact has been eliminated by the amended design and inclusion of skylights only.*
  - (v) This development seeks a modest extent of flexibility to utilise an existing roof space in more meaningful and high-amenity way than would be achieved if strict compliance with the standard were required. There is a significant improvement to the amenity of the units arising from the use of the empty attic area and no associated visual impact from the skylights.*
  - (vi) 'Compatibility' is distinguishable from 'consistency' and a building is not required match the relative height, bulk and scale of the desired future character of the locality to be compatible. To achieve compatibility, it must have a reasonable relationship to the height, bulk and scale of the desired future character.*
  - (vii) This is an important distinction in this case because despite the existing non-compliance of this building with the height, its contribution to the heritage conservation area dictates that the desired future character for this site will be the retention of this building and its current height, bulk and scale.*
  - (viii) The provision of skylights above the height standard within an existing roof form does not impact in any way on the building's positive contribution to the physical definition of the street network and the breach is not discernibly visible from any public space. The front of the building complies with the development standard and it is that component of the building that positively complements the street network through its tall streetwall and narrow setbacks to similarly scaled buildings.*
  - (ix) The extension into the roof also conforms with the attic level controls in the WDCP:*
    - providing for an attic level representing 25% of the floor level below (half of the 50% control); and*
    - containing only a study/office and small bathroom areas that are attached to the units below (complying with the control to not have independent units in attics).*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:*
- (i) The height breach is caused by the provision of flush-mounted skylights within a roof plane that already exceeds the height limit;*
  - (ii) The additional accommodation is provided wholly within the existing building roof area, without any change to the extent of compliance the building has with the height limit;*

- (iii) The skylights above the height plane provide for the utilisation of an existing roof space that allows the units to gain a study/home office and bathroom in the attic level, within a modest but meaningful addition to the top floor.*
- (iv) The skylights offer greater amenity to the units and improved environmental efficiencies by offering dual level apartments at the top level with improved solar access and cross-ventilation opportunities;*
- (v) The scale of the building remains complementary to the future desired character of the locality, particularly with the retention of the roof;*
- (vi) The design satisfies the new Object inserted into the EP&A Act 1979 which seeks to promote good design and amenity of the built environment, as further supported by a Heritage Specialist; and*
- (vii) The proposal is consistent with the objectives of the FSR development standard and the objectives of the zone.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the development standard and objectives of the zone as outlined below:

*R3: Medium Density Residential Zone Objectives*

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

**Comment:** The proposed works above the height limit for the installation of skylights maintain the existing built form of the building. The proposal continues to provide for the needs of the community within the medium density residential environment and maintains residential density on site. Therefore, the proposal is not considered to adversely impact upon other land uses or facilities in the locality. The proposal is considered to be suitable within the medium density residential zone.

*Clause 4.3 Height of Buildings*

*(1) The objectives of this clause are as follows—*

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

**Comment:** The proposed works above the maximum building height limit are for the construction of skylights only upon the existing roof. The existing building exceeds Council's maximum building height development standard and the overall existing building height is unchanged with the proposal. The works maintain the existing roof form and do not add bulk and scale to the building. The skylights would be visible from the streetscape and surrounding properties but are not considered to unduly impose upon the character of the building and its contribution to the Campbell Parade Bondi Beach Conservation Area. As the skylights are to be constructed upon the existing roof form, no adverse impacts upon amenity with regards to overshadowing, view loss or privacy result from the proposal. Therefore, the proposal is considered to be consistent with the objectives of the maximum building height development standard.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out as detailed above.

Conclusion

For the reasons provided above the requested variation to the maximum building height is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the building height development standard and the R3: Medium Density Residential Zone.

#### **Clause 4.4 Floor Space Ratio & Clause 4.6 Exceptions to Development Standards**

The application seeks to vary the floor space ratio (FSR) development standard in Clause 4.4. The site is subject to a maximum FSR control of 0.9:1. The existing building has an FSR of 1.69:1 and the proposal seeks to further increase the existing non-compliance. The proposed development would have an FSR of 1.96:1, exceeding the standard by 361.017m<sup>2</sup> equating to a 117.6% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 2012 seeking to justify the contravention of the development standard by demonstrating:

- (c) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (d) That there are sufficient environmental planning grounds to justify contravening the standard.

#### Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in one or more of the ways offered by Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ. In this particular case, consistent with that decision, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard*
  - (ii) *The existing building breaches the height and density controls for this site, however the building is contributory to a heritage conservation area and is therefore going to remain on this site. The correlation is therefore fixed to the current building and the extent to which the building exceeds both standards is relative. The use of the existing volume inside the roof and the infilling of a niche in the side of the building does not affect the correlation between these controls.*
  - (iii) *The FSR breach does not cause a disconnect with the height and density controls for the site.*
  - (iv) *The bulk and scale of the building is compatible with the locality as from the street the additions are imperceptible except from oblique angles and the existing building is being retained.*
  - (v) *Despite the existing non-compliance of this building with both the FSR and height standards, its contribution to the heritage conservation area dictates that the desired future character for this site will be the retention of this building and its current scale.*

- (vi) *It is therefore highly unlikely that demolition of this building would be approved, and therefore that compliance with the current standards will be achieved. As such, there is an inherent conflict between the desired future character as anticipated by the current LEP standards and the desired future character of requiring retention of the existing building that breaches those standards.*
- (vii) *The inevitable outcome is therefore either retention of the existing non-compliance or some modest extension to it, so long as the additions remain compatible with bulk and scale (objective c) and preserve the amenity of the neighbouring properties (objective d) – which this proposal does.*
- (viii) *The proposal has been amended following feedback from Council’s planning department, that any scheme with dormer windows is unlikely to be supported. The amended scheme now present with smaller rooms inside the existing roof form only (with the roof retained), no balconies and no dormer windows. The progression of the design is shown overleaf.*
- (ix) *The proposal is also compatible with the desired future character of the locality, as the existing building is being retained as desired by the Interwar Flat Building controls in the WDCP.*
- (x) *The extension into the roof also conforms with the attic level controls in the WDCP:*
- *providing for an attic level representing 25% of the floor level below (half of the 50% control); and*
  - *containing only a study/office and small bathroom areas that are attached to the units below (complying with the control to not have independent units in attics).*
- (xi) *The overall scale of the development preserves the environmental amenity of the neighbouring properties in relation to overshadowing, privacy and views.*
- (xii) *The additional FSR is partly attributable to an infill of a building niche that is entirely inconsequential to the scale of this building and does not translate to amenity or bulk/scale impacts upon adjoining properties.*
- (xiii) *The other part of the additional FSR is attributable to the utilisation of the existing roof space with no protruding elements above the existing pitched roof. There is currently enough head height in the middle of the roof to accommodate additional floor area that is entirely invisible (i.e. requires no change to the roof). The amended proposal is entirely restricted to this area only and skylights provide sufficient sunlight and ventilation to accommodate the proposed study/office and bathroom uses.*
- (xiv) *The visual impact of these additions is negligible and from the public domain is only discernible from oblique angles at some distance from the site given the dominance of the front parapet of the building and the narrow separation between buildings generally. The aspect of the skylights that is visible will soon be obscured by an approved development (or similar compliant development) to the building’s east. Once that development is complete, the skylights will not be readily visible from the public domain. Nor are they offensive when seen from the public domain in any event.*
- (xv) *In relation to impacts on the adjoining properties, these are preserved to the same extent as the existing building. There are have no overshadowing or view impacts on neighbouring properties and there is no additional bulk when viewed from neighbouring properties.*

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) *The requirement in clause 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard has a better environmental planning outcome than a development that complies with the development standard.*
- (ii) *A lack of environmental impact does not in itself provide for sufficient environmental planning grounds to vary a standard. It is however noteworthy that the FSR breach itself does not cause any view loss to neighbouring buildings or from the public domain, does not introduce privacy impacts and does not exacerbate overshadowing of adjoining properties.*
- (iii) *As the existing building already exceeds the FSR standard, any additional floor space will not comply. In this case, the additional floor area provides better utility of an unused roof space and a niche alongside the building that offers no amenity to the building in its current form. Strict adherence to the floor space standard would ensure these areas remain unutilised. The use of these areas allows the building units within the building to better meet the amenity standards that are emerging in the area.*
- (iv) *The addition of a study/home office and bathroom in the attic level, provides a modest but meaningful addition to the top floor units as well as improved sunlight and ventilation options. Additions to the lower floor units through the filling in of the central niche similarly improves their amenity and generosity of space.*
- (v) *The additional accommodation is provided wholly within the existing building envelope, including utilising an empty attic area with that otherwise meets the WDCP design criteria and desired future character objectives of the Bondi Beachfront Area.*
- (vi) *The utilisation of the roof space is the least impactful area for additional floor area and allows for the units to gain a home office which is not currently provided.*
- (vii) *The utilisation of the niches on the side of the building, accounting for 40m<sup>2</sup> of the proposal, improves the amenity of the units to allow for bedrooms, ensuites and storage.*
- (viii) *The scale of the building remains complementary to the future desired character of the locality.*
- (ix) *The design satisfies the new Object inserted into the EP&A Act 1979 which seeks to promote good design and amenity of the built environment, as further supported by a Heritage Specialist; and*
- (x) *The proposal is consistent with the objectives of the FSR development standard and the objectives of the zone.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard



is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the development standard and objectives of the zone as outlined below:

*R3: Medium Density Residential Zone Objectives*

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

**Comment:** The additional floor space is largely contained within the existing building footprint and the infill of the void space is proportionate to the existing built form. The proposal continues to provide for the needs of the development within the medium density residential environment. The proposal maintains the existing number of units within the building and therefore the proposal is not considered to adversely impact upon other land uses or facilities in the locality. The proposal is considered to be suitable within the medium density residential zone.

*Clause 4.4 Floor Space Ratio Objectives*

*(1) The objectives of this clause are as follows—*

- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

**Comment:** The proposal results in an additional 91.23m<sup>2</sup> of GFA for the construction of an attic level that is to provide office space, storage and an additional bathroom to the existing four (4) units on the top floor level of the building. The additional GFA also results from the proposed infill of the void space at the south-east elevation of the building to reconfigure the existing laundry at the basement level, provide additional storage space and allow for additional floor space to Unit 6 to accommodate a new bedroom. The proposed works do not add any unreasonable bulk and scale of the building as viewed from the streetscape and surrounding properties. The infill of this void space is contained within the existing building footprint and will not unduly impose upon the building as viewed from Campbell Parade and is considered to be acceptable. Therefore, despite the further non-compliance the proposal is considered to be consistent with the objectives of the FSR development standard.

#### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out as detailed above.

#### Conclusion

For the reasons provided above the requested variation to the maximum FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the FSR development standard and the R3: Medium Density Residential Zone.

#### **Clause 5.10 Heritage Conservation**

The site is located in and is highly contributory to the Campbell Parade Bondi Beach Conservation Area. The original plans lodged with the subject review application was referred to Council's Heritage Advisor however, issues raised with the assessment of the original application with regards to modification of the existing roof form and removal of existing roof tiles remained unresolved. The amended plans were referred to Council's Heritage Advisor who supported the changes and provided the following comments:

*"The skylights provide a cohesive response to the existing form and fabric. The size of these may produce substantial heat load and sufficient light could be obtained using smaller, spaced, skylights and small roof vents."*

The comments on the use of smaller, spaced skylights was noted and passed on as a suggestion to the Applicant however, they wished to leave the skylights as proposed that is considered to be acceptable. Given the above, the amended application is considered to be satisfactory with regards to objectives of Clause 5.10 of WLEP 2012 as the proposal conserves the environmental heritage Waverley or the Campbell Parade Bondi Beach Conservation Area, retains original materials and fabric of the building with regards to the roof, and maintains the setting and streetscape presentation of the building to Campbell Parade.

### 2.1.5 Waverley Development Control Plan 2012 - Amendment No 8 (Waverley DCP 2012)

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction.
2. Ecologically sustainable Development	Yes	Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2.
6. Stormwater	Recommended Condition	The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. Conditions are recommended to be imposed for the submission of amended stormwater details, should the application be approved.
7. Accessibility and adaptability	Recommended Condition	Council's Fire Safety Officer reviewed the original proposal considered that the building may be non-compliant with the BCA with regards to fire safety and access. No BCA Report was submitted with the subject review application. <i>See below for further comments.</i>
8. Transport	Yes	The proposal retains the existing garage car parking for Units 3 and 4 at the basement level. However, the garage for Unit 3 is proposed to be modified to accommodate additional bicycle parking for three (3) bicycles as well as reconfiguration of the existing laundry. This is considered to be acceptable in the site circumstances.
9. Heritage	Yes	<i>See discussion above.</i>
10. Safety	Yes	The proposal would not contravene the objectives of this part of the DCP.
11. Design Excellence	Yes	The proposal is considered to be of an acceptable design given the surrounding context of the area and is a suitable response to the site and streetscape.

**Table 3: Waverley DCP 2012 – Part C1 – Special Character Areas**

Development Control	Compliance	Comment
<b>1.2 North Bondi</b>		
Desired Future Character Objectives (c) Minor alterations in the roof space.	Yes	The amended proposal retains the existing roof form and as such, the additional gross floor area at the attic level is contained within the existing roof space that is acceptable.
Controls (e) Buildings should have pitched roofs with red tiles in keeping with the existing character of the area. (f) Attics are to be secondary to the main pitched roof form.	Yes	The amended proposal retains the existing roof tiles and maintains the integrity of the existing roof and the contributory value of the building to the heritage conservation area.

**Table 4: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

The proposal is defined as a “Residential Flat Building” that is not subject to assessment under SEPP 65 Design Quality of Residential Apartment Development” in the LEP.

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>Minimum frontage: 15m – R3 zone</li> </ul>	Merit Assessment	The proposal is for alterations and additions to the existing residential flat building and would not change the existing length of the site frontage.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Maximum external wall height: 9.5m</li> </ul>	Merit Assessment	The proposed infill of the void space at the south-eastern elevation of the building would exceed the maximum wall height applicable to the site of 9.5m however, the existing building does not comply with the external wall height control and the proposed works would align with the existing external wall height. Therefore, the proposal is considered to be acceptable in this regard.
<b>3.3 Setbacks</b>		
3.3.1 Street setbacks	N/A	The proposal does not alter the existing street setback of the building.
3.3.2 Side and rear setbacks <ul style="list-style-type: none"> <li>Minimum side setback: 1.5-2.5m</li> <li>Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li> </ul>	Merit Assessment	The existing side and rear setbacks of the building are non-compliant however, the works retain the existing setbacks as the works are contained within the existing building footprint. The proposal is considered to be acceptable in this regard.
<b>3.4 Length and depth of buildings</b>		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum building length: 24m</li> <li>Façade to be articulated</li> <li>Maximum unit depth: 18m</li> </ul>	Yes	The proposal would not alter the existing length of the building or internal depth of the units beyond 18m and is acceptable.
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Corner sites to address both streets as primary frontages</li> <li>Removal of original architectural features not supported.</li> </ul>	Yes	The proposed works are contained within the existing building footprint and do not adversely impact upon the presentation of the existing building to the streetscape.
<b>3.6 Attic and roof design</b>		
<ul style="list-style-type: none"> <li>Attic must be wholly within a pitched roof form</li> <li>Not exceed 50% of the floor of area of the floor below</li> <li>Not contain independent dwellings and must be accessed via internal stairs</li> <li>Be naturally ventilated</li> <li>Minimum room width: 3m</li> <li>Minimum floor to ceiling height for at least 2/3 of the floor area: 2.4m</li> <li>Dormer windows and skylights to be less than 50% of roof elevation</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Merit Assessment</p> <p>Yes</p>	<p>The amended application provides the new attic space wholly within the existing roof form that is internally accessed from each of the four (4) units located on the top floor level of the building. The attic is to be naturally ventilated through the use of skylights that occupy less than 50% of the roof elevation.</p> <p>The attic has a total area of 51.31m<sup>2</sup> that is 24% the area of the second-floor level and is therefore compliant. Each attic room has a total width of 3.27m, whereby 1.37m of its width is utilised as storage space and the remainder as a study/office. Each room also has a maximum floor to ceiling height of 2.984m however, 2.47m of the room width has a floor to ceiling height of 2.4m or less that accounts for 75.5% of the floor area that is non-compliant.</p> <p>Despite this non-compliance, the proposed space within the attic is considered to be satisfactory, given that the space is wholly contained within the existing roof form and is to be utilised as a study/office.</p> <p>Therefore, the proposed attic and roof design is compatible with the existing building and will improve internal amenity for the existing units within the building.</p>
<b>3.8 Pedestrian access and entry</b>		
	Yes	The proposal maintains the existing pedestrian access to the building and is acceptable.
<b>3.9 Landscaping</b>		

Development Control	Compliance	Comment
	Merit Assessment	There is currently no existing landscaping on the site. The proposed infill of the void space at the south-eastern elevation of the building is to be constructed over existing paving therefore, the proposal is considered to be acceptable in the site circumstances.
<b>3.10 Communal open space</b>		
<ul style="list-style-type: none"> <li>• Minimum 15% communal (R3 zone): 51m<sup>2</sup></li> <li>• Minimum dimensions: 6m x 6m</li> <li>• Minimum of 30% of communal area must receive three hours of sunlight</li> <li>• Accessible</li> </ul>	Yes	The proposed infill of the void space at the south-eastern elevation of the building for the construction of a storage room for Unit 8 results in a decrease in communal open space on the site. As a result, the proposed communal open space would be 100.8m <sup>2</sup> (29.64%) that is still compliant with Council's control.
<b>3.11 Private Open Space</b>		
3.11.2 – Balconies/decks <ul style="list-style-type: none"> <li>• Balcony additions to match the character of the building</li> </ul>	Yes	No balconies are proposed with the amended proposal and is acceptable.
<b>3.13 Solar access and overshadowing</b>		
	Yes	The proposal results in no additional overshadowing as the works are contained within the existing building footprint.
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>• Minimise view loss through design</li> </ul>	Yes	The amended proposal will result in no view loss impacts as the attic is to be wholly contained within the existing roof form.
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>• Development over 50 dwellings must be designed with CPTED principles – See B10 Safety</li> <li>• Privacy be considered in relation to context density, separation use and design.</li> </ul>	Yes	<p>The proposal generally maintains visual privacy and security for the existing building.</p> <p>Two new windows are proposed on the ground and first floor levels of the infill of the existing void space at the south east-elevation. The window at the ground floor level is to be provided to the new storage space to Unit 8 that is not considered to result in any adverse privacy impacts for the adjoining property.</p> <p>The window proposed to Unit 7 on the first floor level to the new bedroom space would be slightly offset from the approved first floor level bathroom window at 146 Warners Avenue under <b>DA-290/2014</b>. Given that this window on the adjoining property is to be fitted with translucent glazing to a height of 2.1m from the finished floor</p>

Development Control	Compliance	Comment
		<p>level, the proposed window at this location of the building is considered to be acceptable.</p> <p>Furthermore, two new small windows are proposed on the south east elevation at the second floor level, one to the new bathroom for Unit 3 and the other to the new internal staircase for Unit 2. These windows are not anticipated to result in any adverse privacy impacts and are acceptable.</p>
<b>3.16 Dwelling size and layout</b>		
<ul style="list-style-type: none"> <li>• Max habitable room depth for single aspect dwelling is 8m from a window</li> <li>• Max width of dwelling over 15m deep is min 4m</li> <li>• All habitable rooms to have a window</li> <li>• Provide a range of dwelling types and sizes</li> <li>• Min sizes Studio = 35m<sup>2</sup> 1 bedroom = 50m<sup>2</sup> 2 bedroom = 80m<sup>2</sup> 3 bedroom = 100m<sup>2</sup></li> <li>• Flexible design</li> <li>• Accessible and Adaptable</li> </ul>	Yes	The proposal would not reduce the size of the existing units within the building and is acceptable in this regard.
<b>3.17 Ceiling Heights</b>		
<ul style="list-style-type: none"> <li>• Min 2.4m floor to ceiling height attic levels</li> </ul>	Merit Assessment	<i>See comments in section 3.6 of this table.</i>
<b>3.18 Storage</b>		
<p>In addition to kitchen cupboards and bedroom wardrobes, min storage required is:</p> <ul style="list-style-type: none"> <li>• Studio and 1 bed = 6m<sup>3</sup></li> <li>• 2 bed = 8m<sup>3</sup></li> <li>• 3 or more bed = 10m<sup>3</sup></li> <li>• All to provide bulk storage are in basement or ancillary structure</li> </ul>	Yes	The proposal seeks to provide additional storage for Units 4 and 8 within the building that is considered to be acceptable. Additional storage space is also provided within the attic level for Units 1, 2, 3 and 4 that is satisfactory.
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>• Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The proposal is not anticipated to result in adverse acoustic privacy impacts.
<b>3.20 Natural Ventilation</b>		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> <li>Building to be orientated to maximise breezes</li> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>	Yes	The proposal is considered to be provided with adequate natural ventilation.
<b>3.21 Building services</b>		
	Yes	The proposal would not change the location of existing building services.
<b>3.22 Interwar Flat Buildings</b>		
3.22.1 – General <ul style="list-style-type: none"> <li>Retain the character of the building</li> <li>Preserve the integrity of the building and retain original building fabric and decorative elements &amp; parapets</li> <li>Minimise alterations and additions and be secondary to existing building</li> <li>Differentiate between old and new additions</li> <li>Minimise visibility of new works from the public domain.</li> <li>Parking to maintain relationship to the street</li> </ul>	Yes	As discussed throughout this report, the amended proposal retains the existing character of the building and the integrity of the original building fabric. The proposed works are contained within the existing building footprint and would have no adverse impact upon the view of the building from the public domain.

**Table 7: Waverley DCP 2012 – Part E3 – Site Specific Development**

Development Control	Compliance	Comment
<b>2.1 Bondi Beachfront Area</b>		
Desired Future Character Objectives <ul style="list-style-type: none"> <li>Dominant landscape character</li> <li>Provide front gardens and mature trees</li> <li>Appropriate response to height and site access responding to high and low sides of the street</li> </ul>	Yes	The proposal is an appropriate design response to the site and surrounds for reasons discussed throughout this report.
<b>2.1.3 Built Form Objectives</b>	Yes	The amended proposal complies with the relevant objectives and controls of this section as



Development Control	Compliance	Comment
<p>(a) To ensure new and refurbished buildings are sympathetic to the scale and height of existing buildings.</p> <p><u>Controls</u></p> <p>(a) The built form of new and refurbished buildings must complement the height and scale of the prevalent built form within the Bondi Beachfront Area.</p> <p>(d) Attic levels must be wholly contained within a hipped or gabled roof form, and should be setback a minimum of three metres from the principal façade and not encroach into the setback line.</p>		<p>the works are sympathetic to existing development in the locality. The attic level is contained within existing roof form maintains the scale of the existing building.</p>
<p><b>2.1.4 Roofs</b></p> <p><u>Objectives</u></p> <p>(a) To maintain the established roof-scape along Campbell Parade.</p> <p>(b) To ensure rooftop elements are cohesive with the existing streetscape and their roof mounted services are concealed from and do not dominate roof-scapes viewed from Campbell Parade, Bondi Beach or the public domain.</p> <p>(d) To ensure that balconies and balcony or roof top additions do not substantially alter heritage items or contributory buildings.</p> <p><u>Controls</u></p> <p>(a) The existing pattern of roof forms and roof elements along Campbell Parade must be retained.</p>	<p>Yes</p>	<p>The amended proposal maintains the existing roofscape and would have no adverse impact upon the contributory value of the building to the heritage conservation area and the streetscape.</p>
<p><b>2.1.5 Views</b></p> <p><u>Objectives</u></p> <p>(b) To minimise view loss from existing developments by proposed development.</p>	<p>Yes</p>	<p>As previously discussed, the amended proposal would not result in view loss from surrounding properties.</p>

Development Control	Compliance	Comment
<p>(c) To promote the concept of view sharing as a means of ensuring equitable access to views.</p> <p><u>Controls</u></p> <p>(b) Proposed development should avoid impacting on existing views where possible.</p>		
<p><b>2.1.6 Heritage Conservation Objectives</b></p> <p>(a) To protect and enhance heritage items, contributory buildings and the established character of the heritage urban conservation area.</p> <p><u>Controls</u></p> <p>(e) Any works adjacent to or in the context of heritage items and contributory buildings must clearly demonstrate cohesion with the existing historic character of the streetscape and the form, alignment, detailing, articulation and materials of heritage items and contributory buildings defining the conservation area.</p> <p>(f) Where upper storey additions are proposed to heritage items or contributory buildings that have pitched roofs, attic additions are to be utilised in lieu of additional expressed floors.</p>	Yes	The proposal is satisfactory with regards to heritage conservation as discussed throughout this report.
<b>2.2 Character Areas</b>		
D – Campbell Parade North	Yes	The amended proposal is consistent with the desired future character objectives for the Campbell Parade North area. The new works are integrated with the existing building and the proposed materials to be utilised are acceptable in the heritage conservation area.

## 2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

### 2.3 Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

### 2.4 Any Submissions

The application was notified for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Three (3) submissions were received. The amended plans received on 11 December 2020 were not renotified as the modified works are considered to result in a lesser impact to surrounding properties. Nevertheless, the issues raised in the submissions against the plans originally submitted with the review application are summarised and discussed below.

**Table 5: Summary of property addresses that lodged a submission**

Property
9/60 Ramsgate Avenue, BONDI BEACH
37-41 Ramsgate Avenue, BONDI BEACH
9/144 Warners Avenue, BONDI BEACH

**Issue: FSR Exceedance**

**Response:** See discussion in section 2.1.4 of this report.

**Issue: Building Height Exceedance**

**Response:** See discussion in section 2.1.4 of this report.

**Issue: View Loss**

**Response:** View loss concerns have been alleviated with the amended proposal as the works are now wholly contained within the existing roof form.

**Issue: Change in roof profile, bulk and scale.**

**Response:** The amended plans no longer seek to alter the existing roofscape or bulk and scale of the building as the originally proposed dormers have been removed and replaced with skylights.

**Issue: Solar Access**

**Response:** The amended proposal results in no additional solar access impacts as the originally proposed dormers have been deleted.

**Issue: Visual Privacy**

**Response:** The originally proposed balconies upon the roof have been deleted with the original proposal and the works are no longer considered to result in adverse privacy impacts. *See discussion in section 2.1.5 of this report for further comments.*

**Issue: Acoustic Privacy**

**Response:** The originally proposed balconies upon the roof have been deleted with the original proposal and the works are no longer considered to result in adverse acoustic impacts.

**Issue: Lack of Parking**

**Issue: Increased residential density and waste generation with no additional facilities.**

**Issue: Water and sewage issues in the building.**

**Response:** The existing number of units within the building are retained and therefore, residential density is maintained on site that is suitable for the medium density residential zone. The proposed works are unlikely to result in an increased demand for parking or waste services and is therefore acceptable.

**Issue: Development Precedence**

**Response:** The amended proposal is not considered to set an undesirable development precedence in the locality as the attic level is wholly contained within the existing roof form.

**Issue: Structural integrity of existing building.**

**Response:** Standard conditions of consent are recommended to be imposed with regards to the structural integrity of the existing building, should the application be approved.

**Issue: Impact on property values.**

**Response:** This is not a relevant matter for consideration.

## 2.5 Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

### 3.1 Heritage

*See comments in Section 2.1.4 of this report.*

### 3.2 Fire Safety

The original application was referred to Council's Fire Safety Officer who had provided the following comments:

*An assessment of the proposal revealed that there may be a number of non-compliances with the BCA including, but not limited to: -*

- i. possible fire separation issues between sole-occupancy units, fire resistance levels of existing building elements together with protection of openings internally and externally (i.e. Section C of BCA);
- ii. access and egress issues pertaining to escape and construction of exits (i.e. Section D of BCA);
- iii. inadequate fire services and equipment (i.e. Section E of BCA); and
- iv. provision of sanitary and other facilities (i.e. Part F2 & F5 of BCA).

Pursuant to Clauses 94 of the Environmental Planning and Assessment Regulations 2000, Council must:

- a) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.

To assist in determining whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia, the applicant shall carry out the following prior to determining the subject application: -

1. Engage the services of a suitably qualified Building and Fire Safety Consultant (i.e. Building Surveyor/Accredited Certifier) to undertake a Building Code of Australia (BCA) assessment of the existing building against the deemed-to-satisfy provisions of Sections C, D and E of the BCA.
2. The appointed Building and Fire Safety Consultant is to incorporate the findings/results of the fire safety audit of the subject premises into a BCA/Fire Safety Upgrade Report. The report must set out a strategy, scope of works and recommendations in order to provide the premises with adequate means of fire safety to prevent fire, suppress fire, prevent the spread of fire and ensure or promote the safety of persons in the event of fire. Please note that where Building Solutions contained within the Building Code of Australia are not applied in the Fire Safety Upgrade Report to address a non-compliance identified during in the fire safety audit of the premises, such non-application must be justified.

All new works must fully comply with the provisions of the BCA and the subject report must clearly reflect this.

NB. For a current list of Accredited Certifiers please visit [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au) or telephone the Building Professionals Board on (02) 9895 5928 or (02) 9895 5950.

3. A concluding statement in the BCA Assessment confirming that any modifications and advancement in level of details required to the proposal in order to satisfy the requirements of the BCA will not necessitate the need for any significant design changes that in turn would necessitate the submission of an application under Section 96 of the Environmental Planning and Assessment Act 1979.
4. A schedule of proposed Essential Fire Safety Measures for the proposed building, including their standard of performance, must be included in the BCA Report.

Planning Comment

Given that no BCA Report was submitted with the subject review application, the application was not referred to Council's Fire Safety Officer for a new comment. It is recommended that the above be imposed as a condition of consent and documentation be submitted to the satisfaction of Council's Fire Safety Officer, prior to the issue of a Construction Certificate, should the application be approved.

#### **4. SUMMARY**

The s8.3 review application seeks consent to review the original application for alterations and additions to a residential flat building including attic addition that was refused on 29 April 2020 by the WLPP. The original plans lodged with the subject application attracted a total of three (3) submissions and were not supported by Council. The Applicant lodged amended plans that deleted the dormers and balconies proposed at the attic level and instead maintains the existing roofscape with the installation of skylights. The amended plans were not renotified.

The proposed skylights are sited higher than Council's maximum building height development standard but are considered to be acceptable, given that the existing height of the building remains unchanged. The application also results in a further exceedance of FSR however, the works are contained within the existing building footprint and are not considered to result in any adverse amenity impacts to surrounding properties. Majority of the attic space has a floor to ceiling height less than 2.4m however, this is considered to be acceptable on merit, given that the space is primarily to be utilised as a study and store room.

The amended plans have been reviewed by Council's Heritage Advisor and are considered to maintain the integrity of the existing building and have no adverse impacts upon the Campbell Parade Bondi Beach Heritage Conservation Area.

Therefore, the proposal is recommended to be approved, subject to recommended conditions.

Having regard to Covid 19 legislation in place during this time, time extensions of 12months for the review of an application apply (usually 6months). The subject application meets this time for reassessment of the review application.

#### **DBU Decision**

The application and assessment report was reviewed by the DBU at the meeting on 17 November 2020 and on 20 November 2020 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: M Reid, A Rossi, B McNamara, E Finnegan

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

**Report prepared by:**



Judith Elijah  
**Development Assessment Planner**

**Date:** 17 January 2021

**Application reviewed and agreed on behalf of  
the Development and Building Unit by:**



Angela Rossi  
**Manager, Development Assessment (Central)**

**Date:** 22 January 2021

**Reason for referral to WLPP:**

- 1 Section 8.3 Review
- 2 Departure from any development standard in an EPI by more than 10%

## **APPENDIX A – CONDITIONS OF CONSENT**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by CSA Architects including the following:

<b>Plan Number</b>	<b>Revision</b>	<b>Plan Description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
144W-01	D	Roof/Site Plan	1/12/2020	11 December 2020
144W-02	D	Basement Floor Plan	1/12/2020	11 December 2020
144W-03	D	Ground and First Floor	1/12/2020	11 December 2020
144W-04	D	Second and Attic Floor	1/12/2020	11 December 2020
144W-05	D	Floor Plans	1/12/2020	11 December 2020
144W-06	D	Floor Plans	1/12/2020	11 December 2020
144W-07	D	Roof Plan, Section	1/12/2020	11 December 2020
144W-08	D	Elevations	1/12/2020	11 December 2020

(b) BASIX Certificates

Except where amended by the following conditions of consent.

#### **2. FIRE SAFETY**

To assist in determining whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia, the applicant shall carry out the following for submission and approval by **Council's Fire Safety Officer**, prior to the issue of any Construction Certificate:

- (a) Engage the services of a suitably qualified Building and Fire Safety Consultant (i.e. Building Surveyor/Accredited Certifier) to undertake a Building Code of Australia (BCA) assessment of the existing building against the deemed-to-satisfy provisions of Sections C, D and E of the BCA.
- (b) The appointed Building and Fire Safety Consultant is to incorporate the findings/results of the fire safety audit of the subject premises into a BCA/Fire Safety Upgrade Report. The report must set out a strategy, scope of works and recommendations in order to provide the premises with adequate means of fire safety to prevent fire, suppress fire, prevent the spread of fire and ensure or promote the safety of persons in the event of fire. Please note that where Building Solutions contained within the Building Code of Australia are not applied in the Fire Safety Upgrade Report to address a non-compliance identified during in the fire safety audit of the premises, such non-application must be justified.
- (i) All new works must fully comply with the provisions of the BCA and the subject report must clearly reflect this.
- (ii) NB. For a current list of Accredited Certifiers please visit [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au) or telephone the Building Professionals Board on (02) 9895 5928 or (02) 9895 5950.



- (c) A concluding statement in the BCA Assessment confirming that any modifications and advancement in level of details required to the proposal in order to satisfy the requirements of the BCA will not necessitate the need for any significant design changes that in turn would necessitate the submission of an application under Section 96 of the Environmental Planning and Assessment Act 1979.
- (d) A schedule of proposed Essential Fire Safety Measures for the proposed building, including their standard of performance, must be included in the BCA Report.

### **3. PUBLIC UTILITIES AND SERVICE ALTERATIONS**

Any utility services and all public infrastructure which require alteration due to works associated with the development, both internally and externally of the development boundary, shall be altered at the Applicant's expense. This includes both temporary and permanent alterations.

### **4. PUBLIC AREAS AND RESTORATION WORKS**

Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas due to construction activities must be made safe to the general public and be regarded as a high level priority. This includes, but not limited to works performed for the purpose of connection/s to public utilities, including repairs of damaged infrastructure. Should Council discover any unsafe construction activities within the public areas surrounding the development, the works must be resolved immediately to the satisfaction of Council.

## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **GENERAL REQUIREMENTS**

#### **5. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### **CONTRIBUTIONS, FEES & BONDS**

#### **6. SECTION 7.12 CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy.
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### **7. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$10,557.50** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **8. LONG SERVICE LEVY**

A long service levy, as required under Section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **CONSTRUCTION & SITE MATTERS**

### **9. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

### **10. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

### **11. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

### **12. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### **13. ESSENTIAL SERVICES - EXISTING BUILDING**

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

### **14. FIRE SAFETY UPGRADING WORKS**

- a) Fire safety upgrading works may be required to be undertaken in accordance with all recommendations detailed in the Building Code of Australia Assessment Report required in Condition 2 of this development consent.
- b) Details demonstrating compliance with the BCA and the matters listed in condition (a) must be submitted and approved by the Certifying Authority prior to the issue of a Construction Certificate.
- c) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate and Strata Subdivision Certificate.

### **15. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED USE DEVELOPMENTS**

Evidence is to be provided to the Principal Certifier that arrangements have been made for;

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

## **STORMWATER & FLOODING**

### **16. STORMWATER MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the

development's stormwater management system must be submitted and approved by Council's Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The stormwater management plans prepared by ITM Design Pty Ltd, Job No. 19/72, DWG No. H-DA-00 & H-DA-01 (Rev A), dated 2 September 2019 have been checked and considered ***not satisfactory*** with respect to stormwater details.

The applicant must submit amended plans and specifications to comply with the current Waverley Council Water Management Technical Manual (WMTM) and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans to include:

- **OSD Details:** The plans to include On-Site Stormwater Detention (OSD) tank and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc and pit overflow. Council's mandatory OSD checklist as set out in page 22 of the Councils water management technical manual shall be submitted.
- Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to insure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4.00pm Monday to Friday)

## **17. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **18. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## **WASTE**

### **19. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

*A Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **20. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### **21. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners on request.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

### **DEMOLITION**

#### **22. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or

- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

### **23. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

### **24. EXCAVATION AND BACKFILLING**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land. The excavation is to be managed by a practising structural engineer.

### **CONSTRUCTION MATTERS**

#### **25. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays;
- (b) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

#### **26. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**



All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### **27. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

#### **28. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### **TREE PROTECTION AND REMOVAL**

#### **29. TREE PROTECTION**

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### **30. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **31. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **32. CERTIFICATION of STORMWATER SYSTEM**

Prior to issue of any Occupation Certificate, certification prepared by a suitably qualified Civil Engineer is to be submitted for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the drainage system in accordance with the approved stormwater management plans and to best engineering practice.

## ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) , in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

### AD2. SYDNEY WATER REQUIREMENTS

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

**AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

**AD5. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD6. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

**AD7. WORK OUTSIDE PROPERTY BOUNDARY**

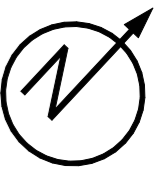
This consent does not authorise any work outside the property boundary.

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-409/2019/1  
Date Received: 11/12/2020

CSA ARCHITECTS  
Nominated Architect: Alex Smith Reg #5473  
alex@csa-arch.com.au

CSA Architects Pty Ltd.  
61 2 9389 4055 www.csa-arch.com.au  
185 Old South Head Rd., Bondi Junction NSW 2022  
a.c.n. 087 234 053



Rev	Description	Date
A	PRELIMINARY DA ISSUE	24/10/2019
B	DA ISSUE	5/12/2019
C	REVIEW ISSUE	28/07/2020
D	DELETE DORMERS	1/12/2020

Contractors are responsible for all site levels and dimensions and must verify these at the job before the commencement of any work, the preparation of shop drawings or the fabrication of components. Do not scale drawings use figured dimensions only.

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Client  
**THE OWNERS CORPORATION**

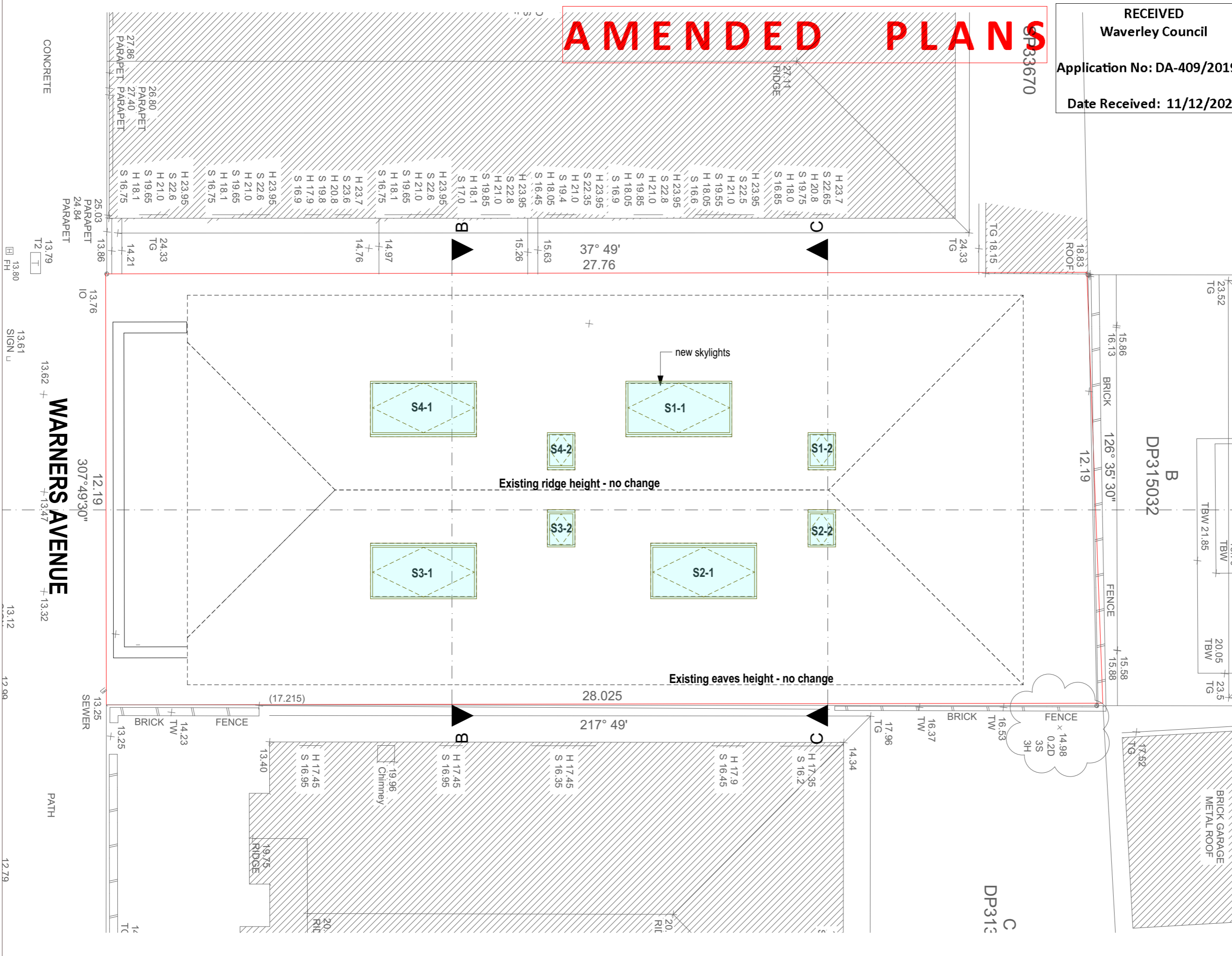
Project  
**NEW ATTICS IN EXISTING ROOF SPACE**  
144 Warners Ave Bondi Beach NSW

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**ROOF / SITE PLAN (1:100)**

Sheet No.  
**144W-01**

Drawn: AY	Checked: AS/DRB	Scale: 1:100 U.N.O.	Rev. <b>D</b>
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ROOF PLAN / SITE PLAN

1:100

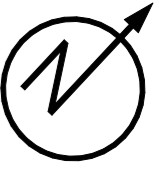
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CSA ARCHITECTS

Nominated Architect: Alex Smith Reg #5473  
alex@csa-arch.com.au

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Client  
**THE OWNERS CORPORATION**

Project  
**NEW ATTICS IN EXISTING ROOF SPACE  
144 Warners Ave Bondi Beach NSW**

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**BASEMENT FLOOR PLAN**

Sheet No.  
**144W-02**

Drawn: AY	Checked: AS/DRB	Scale: 1:100 U.N.O.	Rev. <b>D</b>
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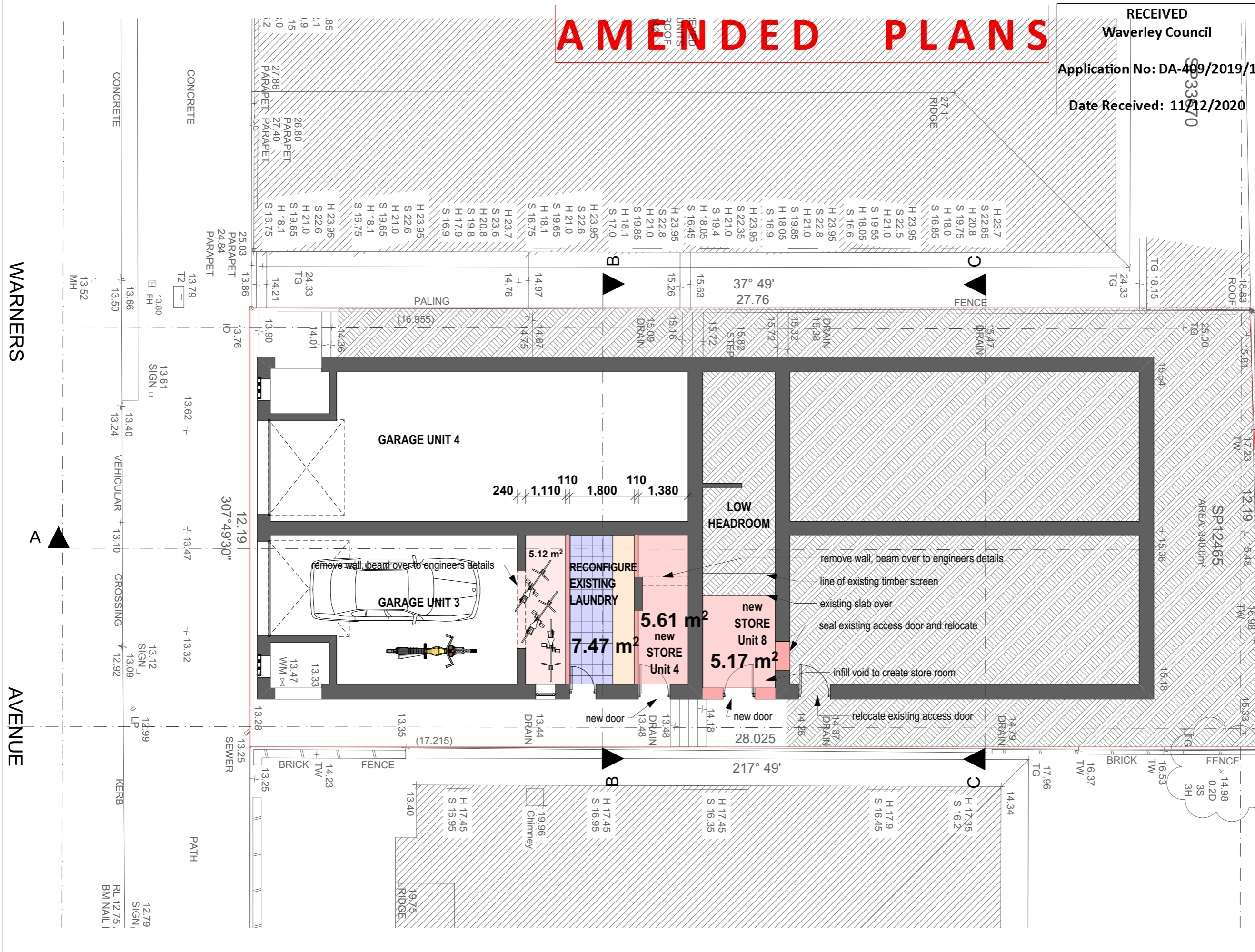
WARNERS AVENUE

AVENUE

1

BASEMENT (1)

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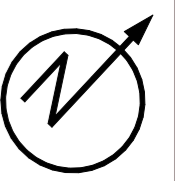
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 **CSA ARCHITECTS**

Nominated Architect: Alex Smith Reg #5473  
alex@csa-arch.com.au

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Client  
**THE OWNERS CORPORATION**

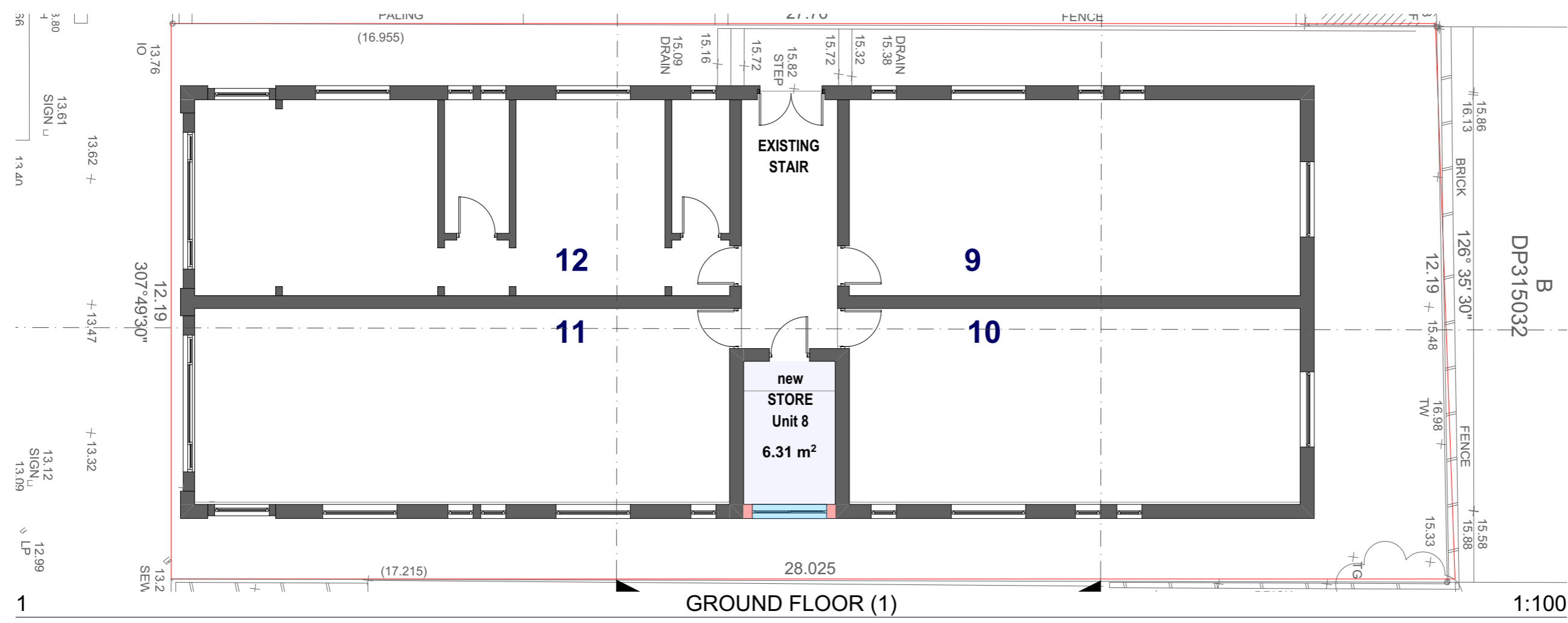
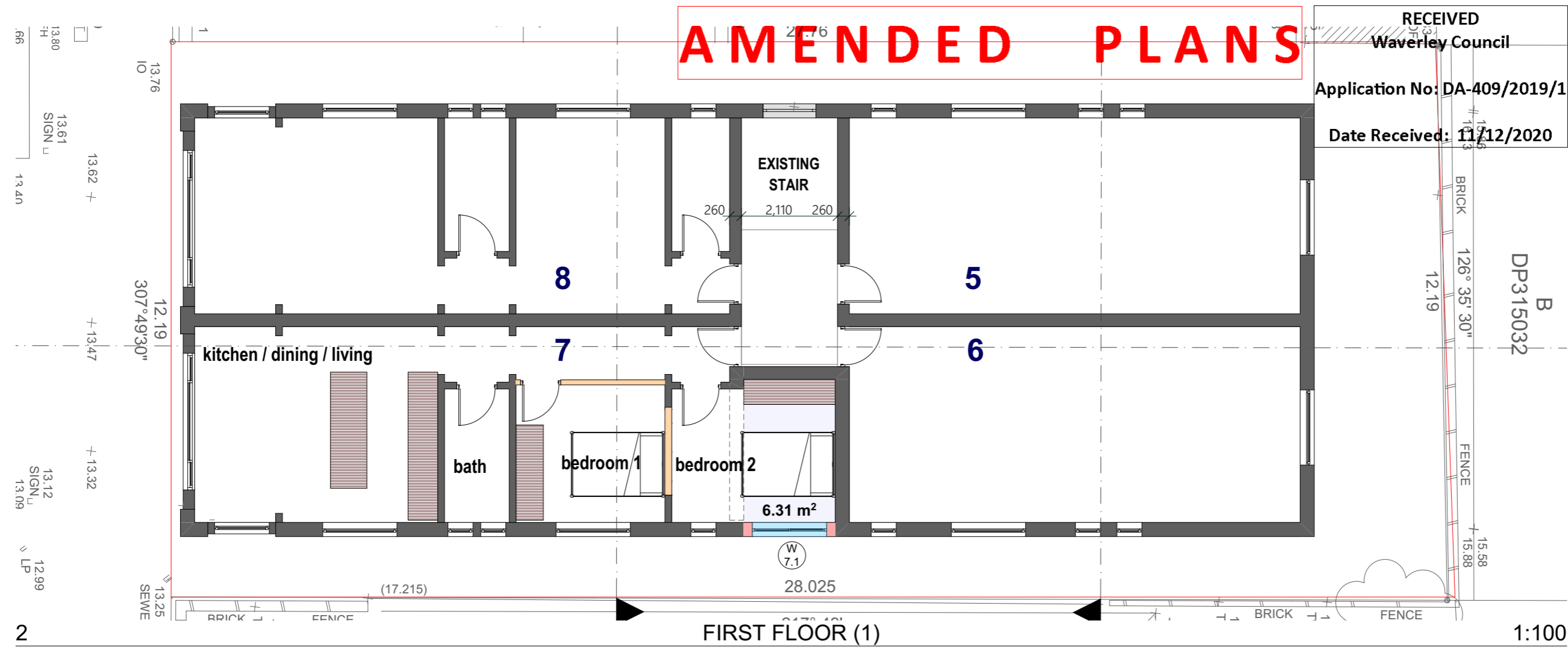
Project  
**NEW ATTICS IN EXISTING ROOF SPACE  
144 Warners Ave Bondi Beach NSW**

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**GRND & 1st FLOOR (1:100)**

Sheet No.  
**144W-03**

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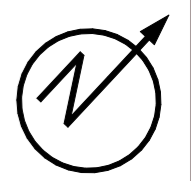
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Application No: DA-409/2019/1  
Date Received: 11/12/2020



Nominated Architect: Alex Smith Reg #5473  
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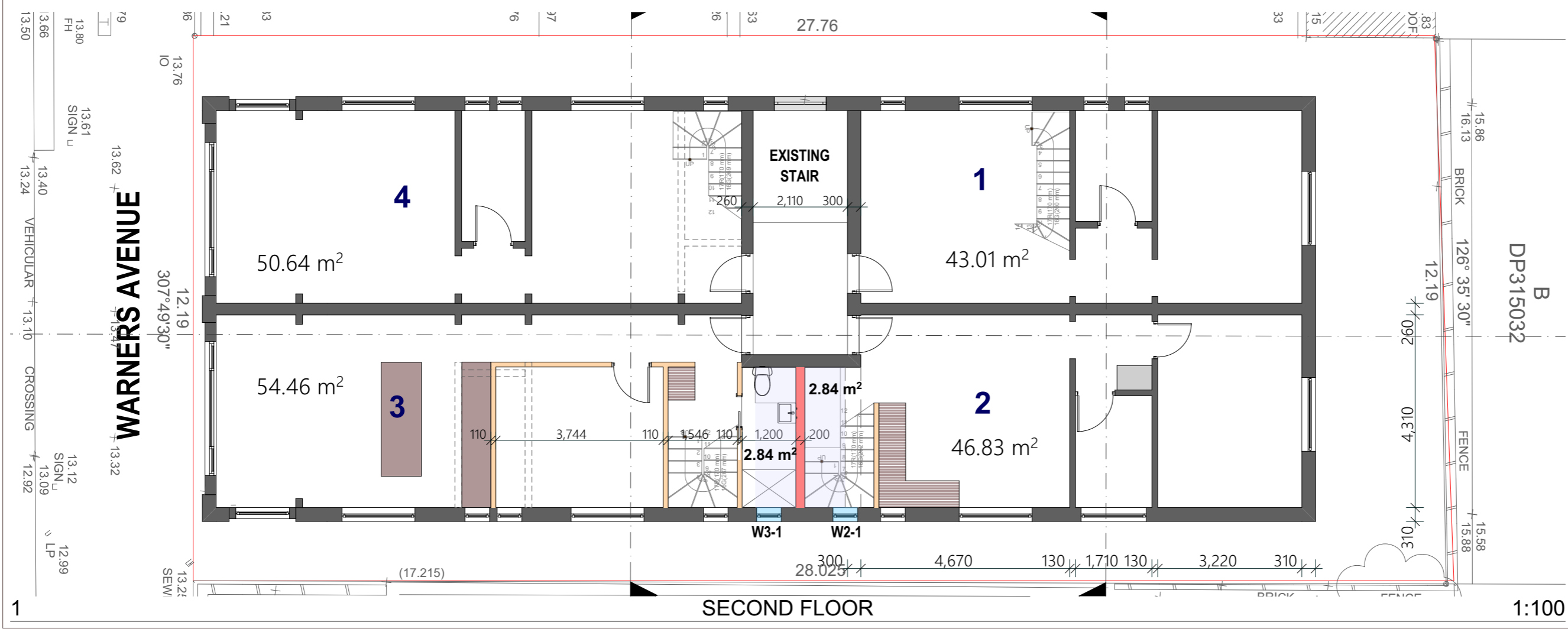
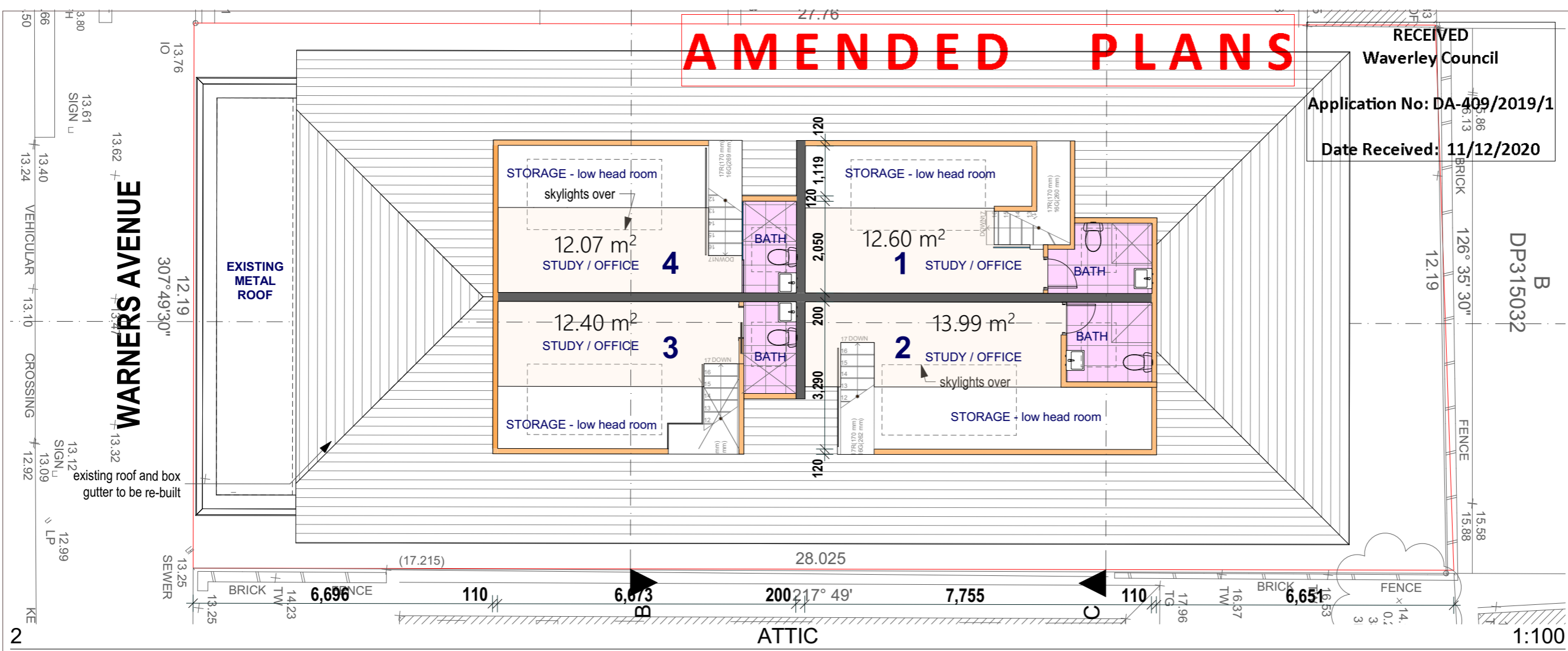
Project  
**NEW ATTICS IN EXISTING ROOF SPACE**  
144 Warners Ave Bondi Beach NSW

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**2nd & ATTIC FLOOR (1:100)**

Sheet No.  
**144W-04**

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**WARNERS AVENUE**

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13.61 SIGN

13.24 VEHICULAR

13.10 CROSSING

12.92 SIGN

13.09 LP

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13.25 SEWER

13.25

14.23

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217° 49'

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**WARNERS AVENUE**

307°49'30"

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217° 49'

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17.215

28.025

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17.96

16.37

6.651

15.58

12.19

15.86

16.13

12.19

15.88



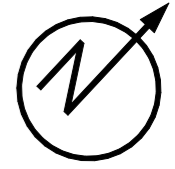
# AMENDED PLANS

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Waverley Council  
Application No: DA-409/2019/1  
Date Received: 11/12/2020



Nominated Architect: Alex Smith Reg #5473  
alex@csa-arch.com.au

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a.c.n. 087 234 053



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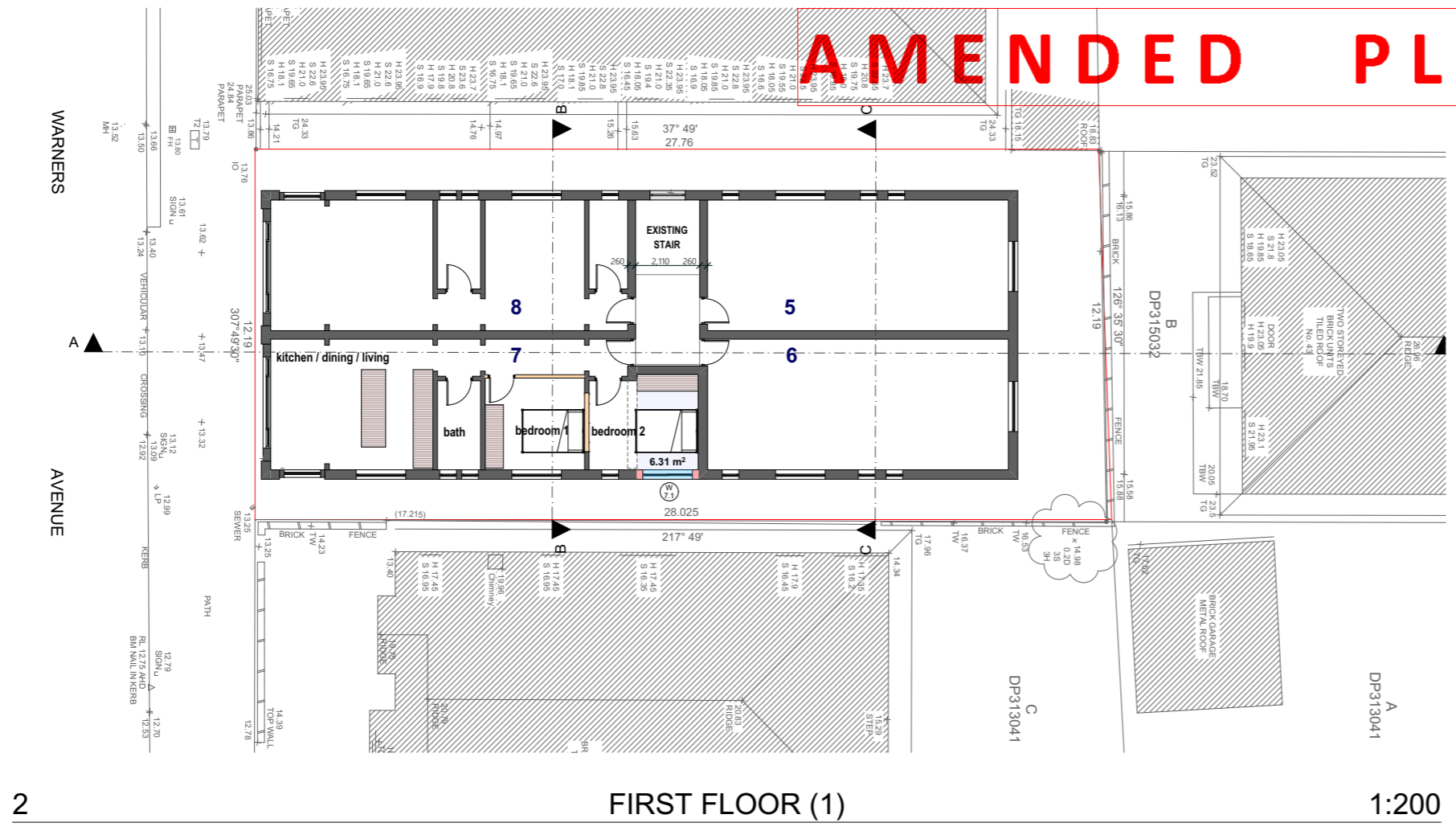
Project  
**NEW ATTICS IN EXISTING ROOF SPACE**  
144 Warners Ave Bondi Beach NSW

Status  
**DEVELOPMENT APPLICATION - S8.2A**

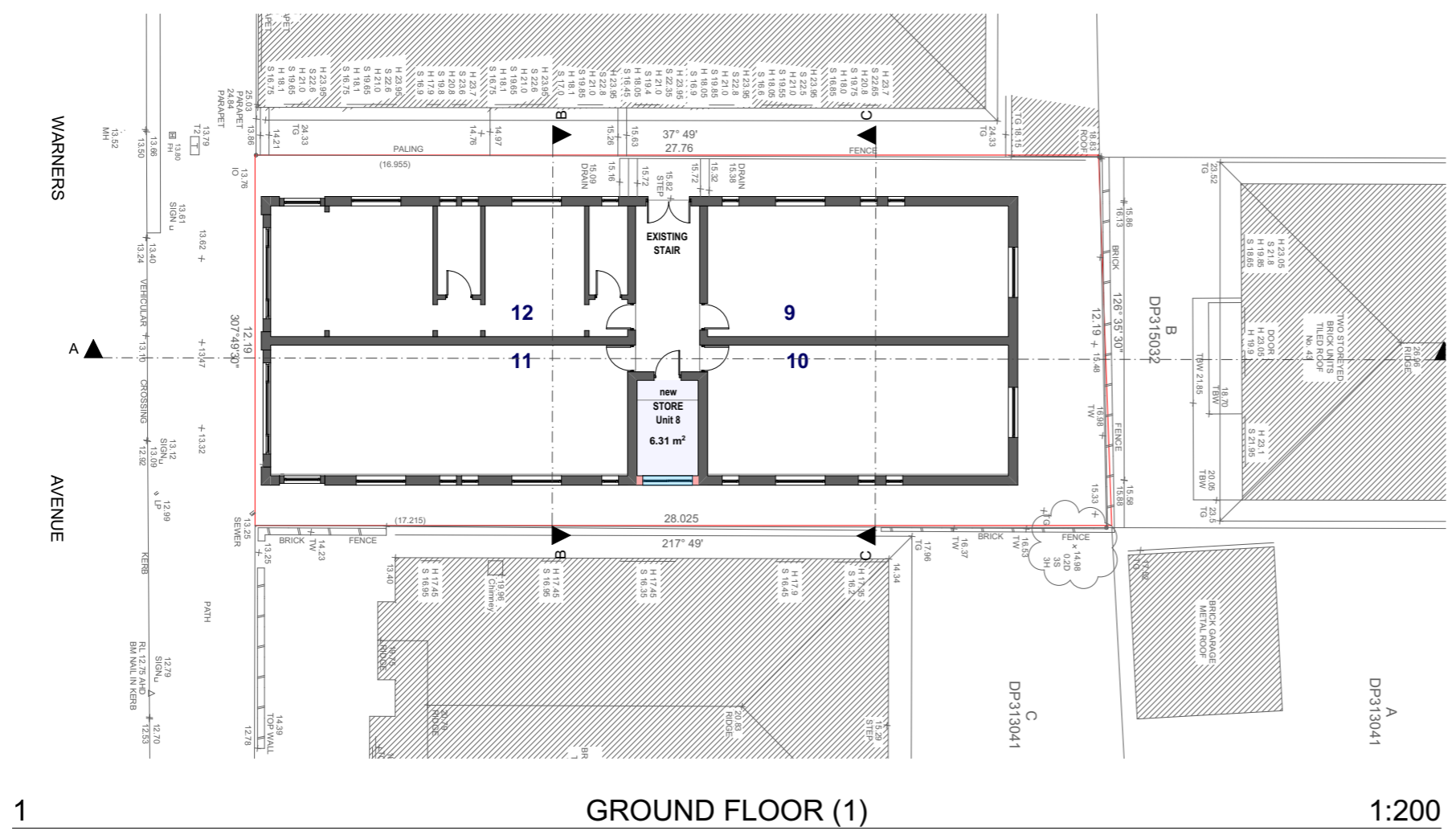
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Sheet No.  
**144W-05**

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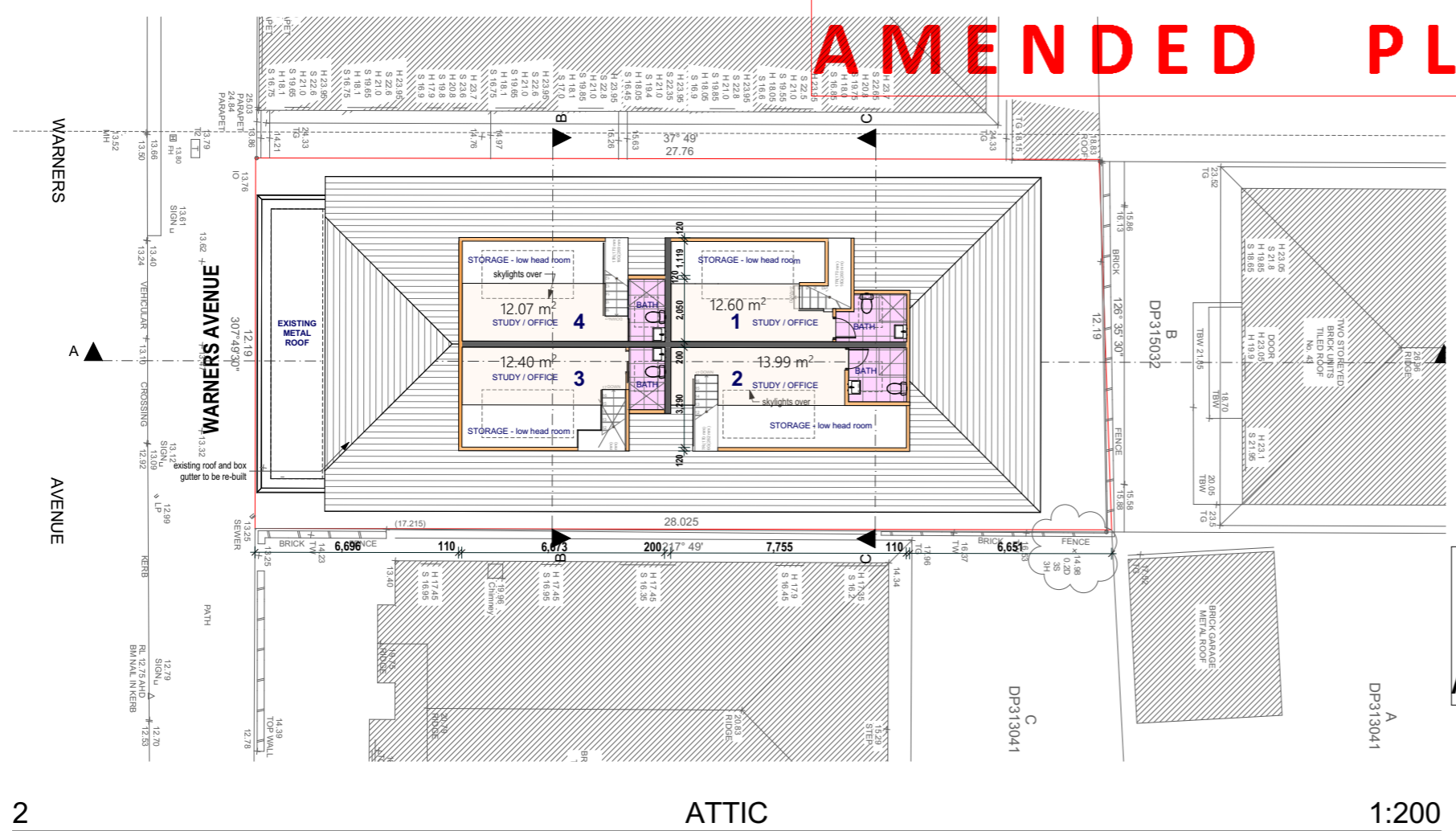
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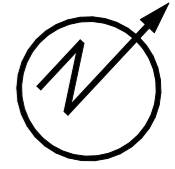


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**Attic Floor Area - 51.13m<sup>2</sup>**  
**Second Floor Area- 215m<sup>2</sup>**  
**Attic total area is 24% of total floor area below**



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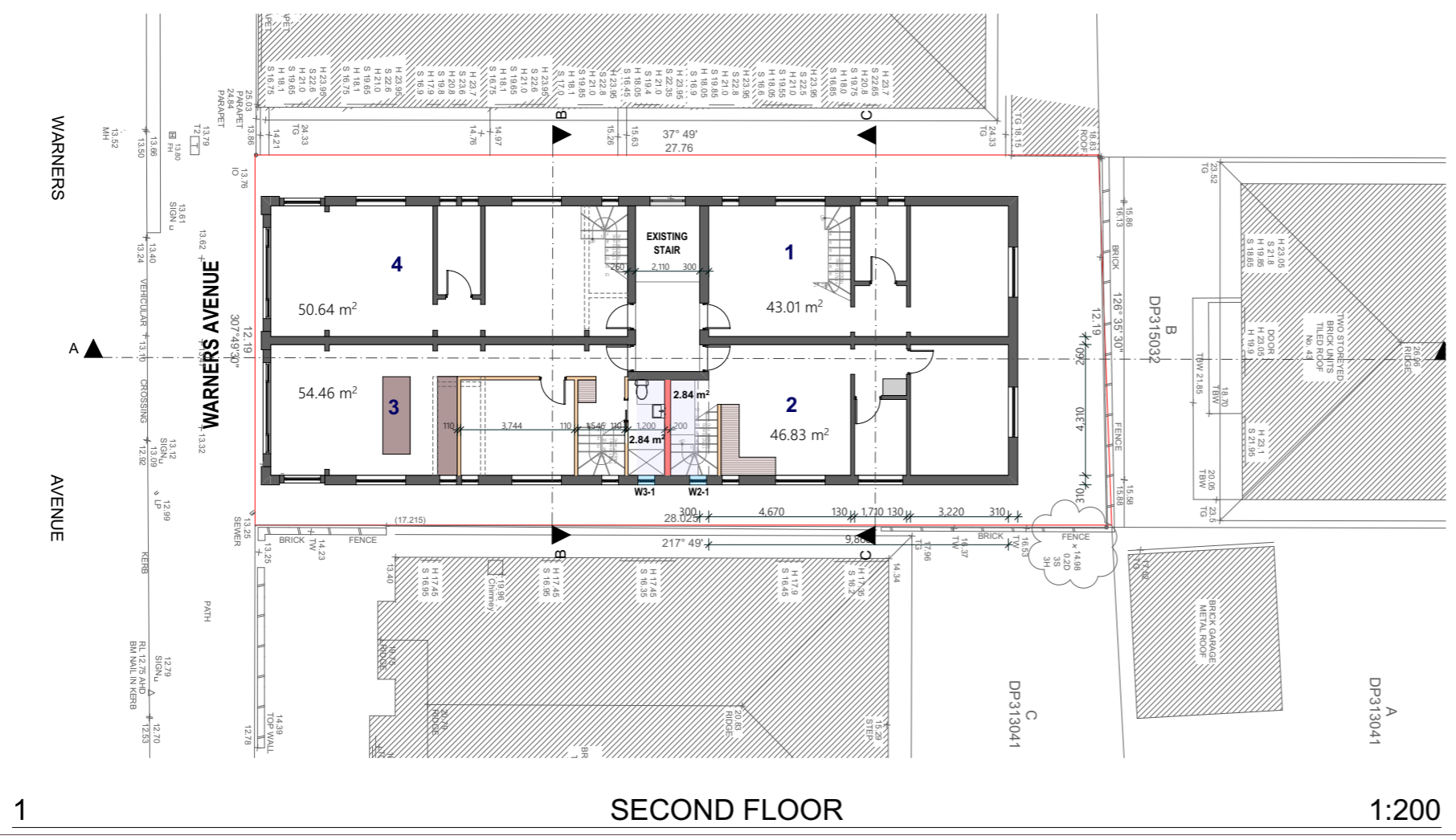
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**NEW ATTICS IN EXISTING ROOF SPACE**  
**144 Warners Ave Bondi Beach NSW**

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**FLOOR PLANS (1:200)\_2**

Sheet No.  
144W-06

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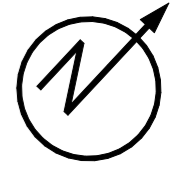
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Project  
**NEW ATTICS IN EXISTING ROOF SPACE**  
 144 Warners Ave Bondi Beach NSW

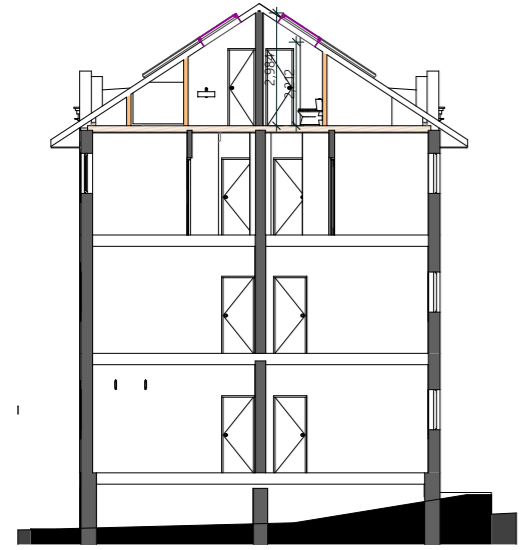
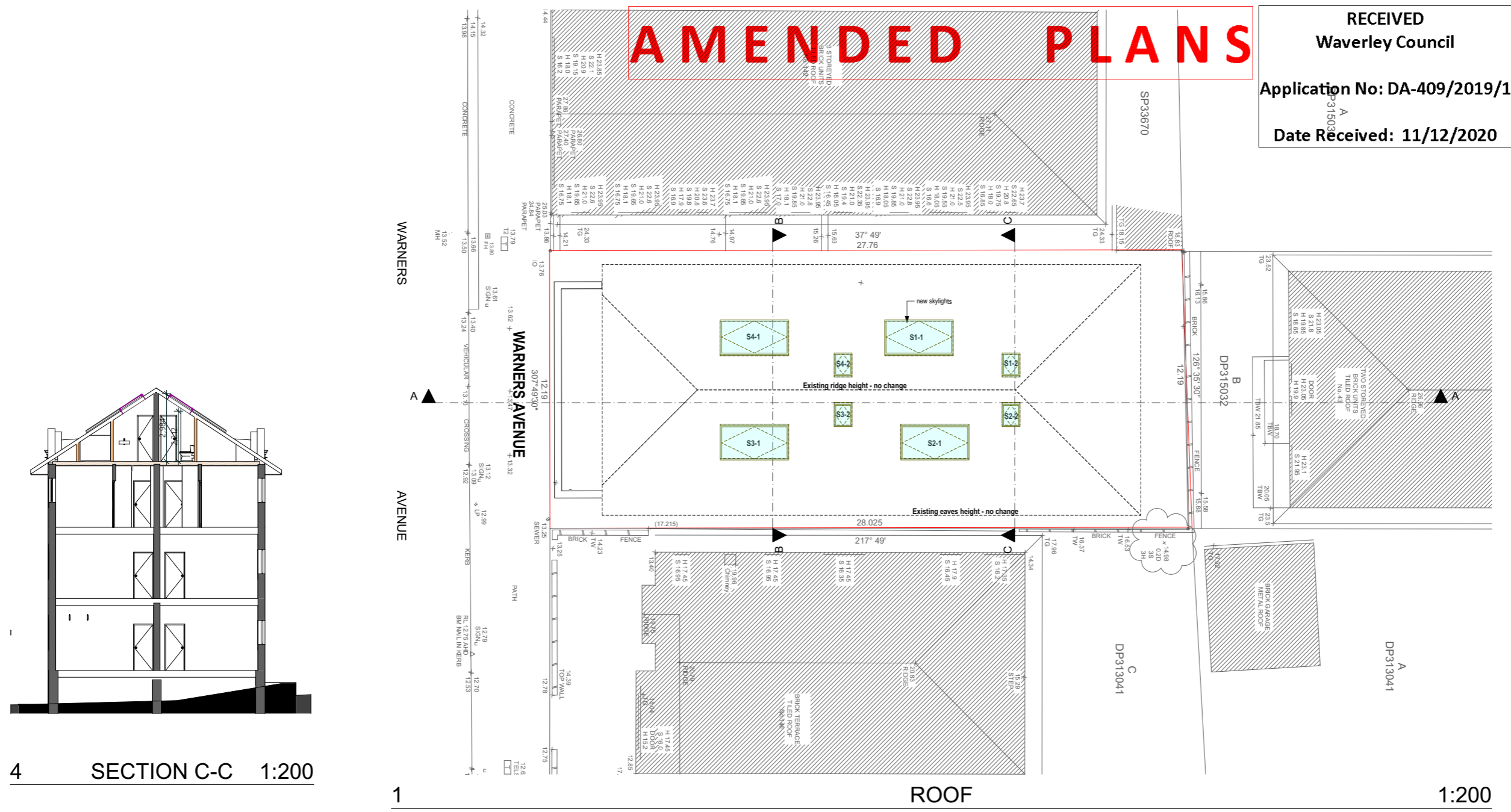
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**DEVELOPMENT APPLICATION - S8.2A**

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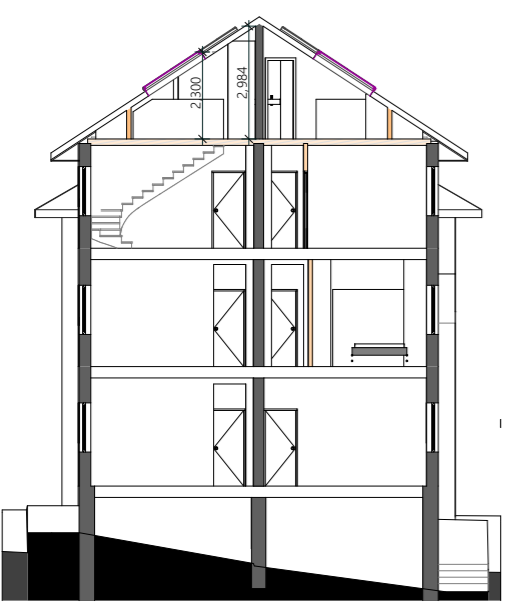
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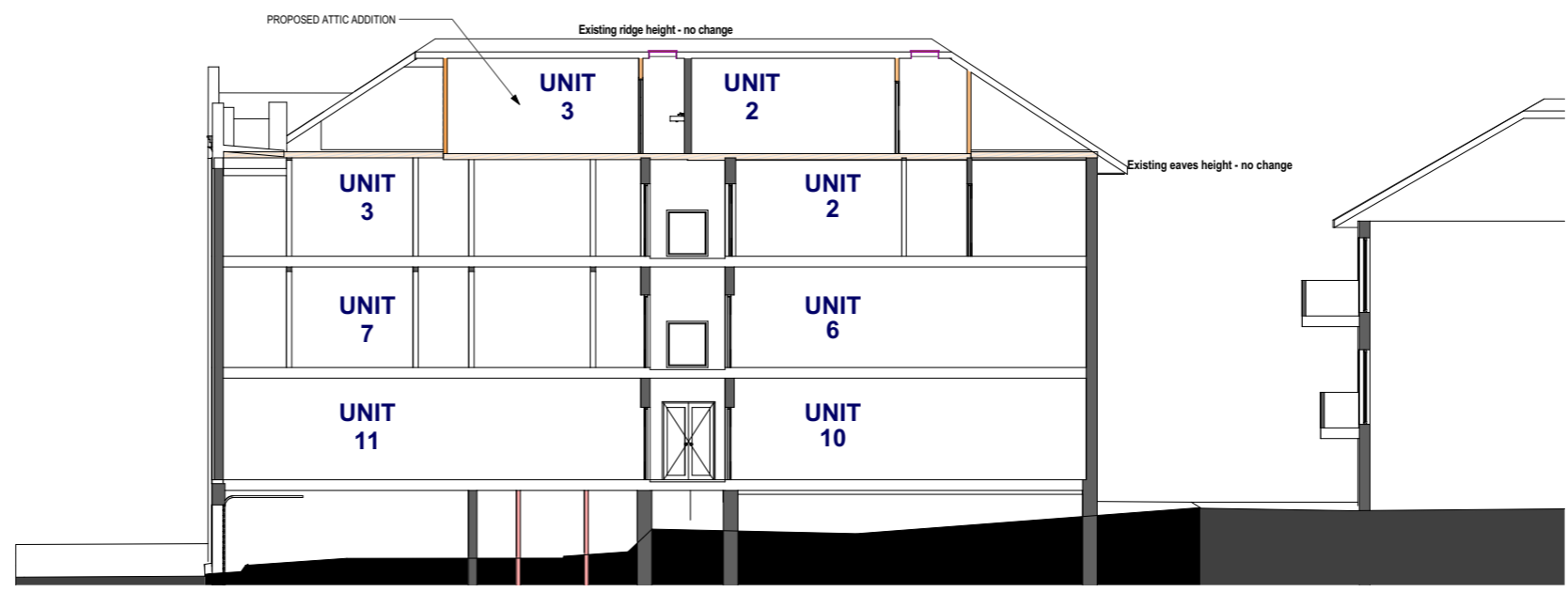
Plot Date: Thursday, 10 December 2020



4 SECTION C-C 1:200



3 SECTION B-B 1:200



2 SECTION A-A 1:200

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Application No: DA-409/2019/1

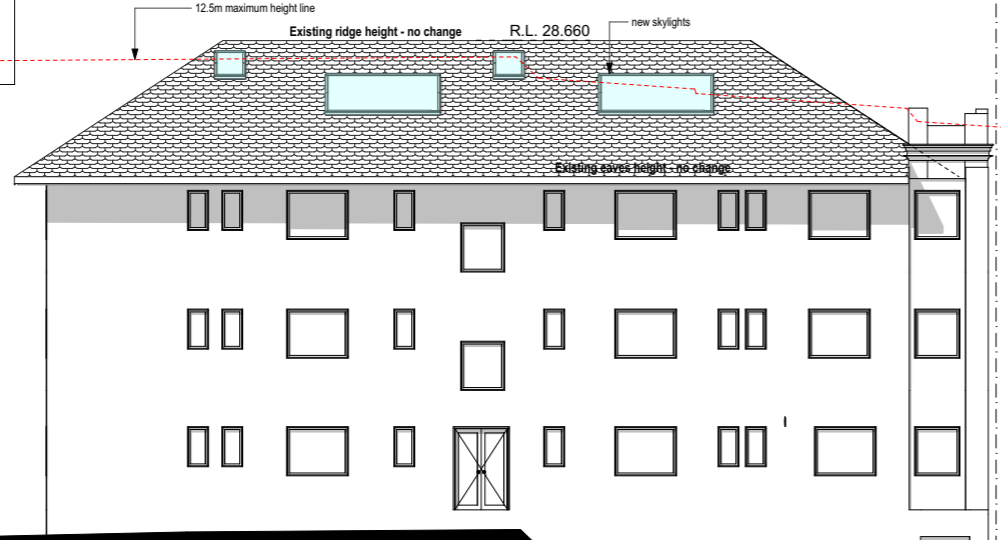
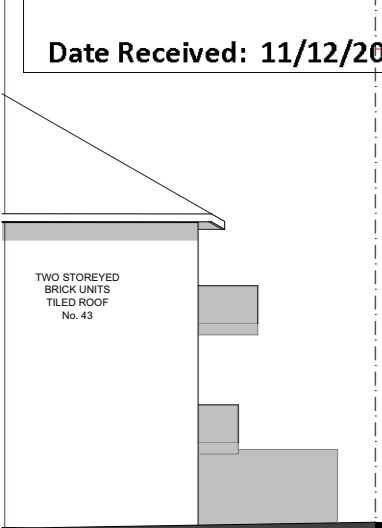
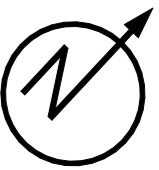
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# AMENDED PLANS



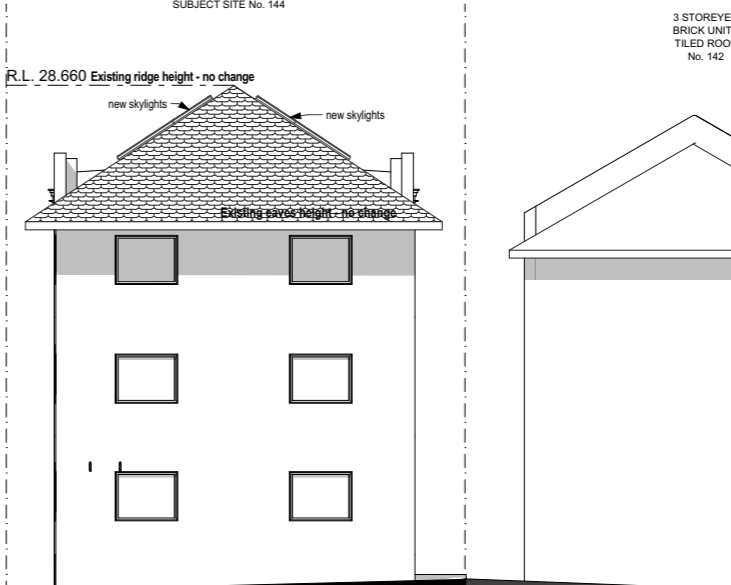
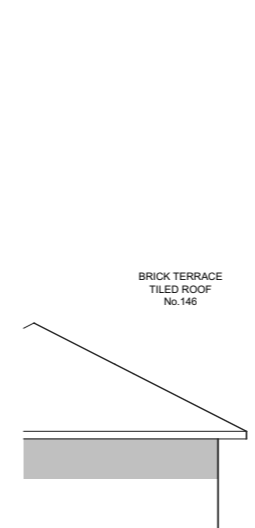
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NORTHWEST ELEVATION

1:200



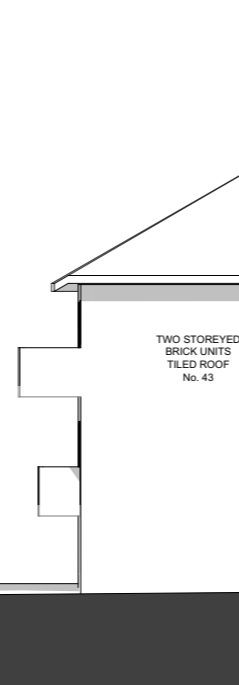
NORTHEAST ELEVATION

1:200



SOUTHEAST ELEVATION

1:200



SOUTHWEST ELEVATION (facing Warners Ave)

1:200

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**THE OWNERS CORPORATION**

Project  
**NEW ATTICS IN EXISTING ROOF SPACE**  
144 Warners Ave Bondi Beach NSW

Status  
**DEVELOPMENT APPLICATION - S8.2A**

## FINISHES COLOURS AND MATERIALS

**Walls** - Existing paint colours to be retained



**Skylights** - Velux High Performance, operable, double glazing



Drawing Title:  
**ELEVATIONS (1:200)**

Sheet No.  
**144W-08**

Drawn: AY	Checked: AS/DRB	Scale: 1:100 U.N.O	Rev. <b>D</b>
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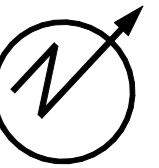
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144 Warners Ave Bondi Beach NSW**

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**3D VIEW**

Sheet No.  
**144W-09**

Drawn: AY	Checked: AS/DRB	Scale: 1:100 U.N.O	Rev. <b>D</b>
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**SITE AREA = 341.07m<sup>2</sup>**  
 EXISTING BASEMENT AREA = NIL  
 ADDITIONAL BASEMENT FLOOR AREA = 18.25m<sup>2</sup>  
 EXISTING GROUND FLOOR AREA = 192.25m<sup>2</sup>  
 ADDITIONAL GROUND FLOOR AREA = 6.31m<sup>2</sup>  
 EXISTING FIRST FLOOR AREA = 192.25m<sup>2</sup>  
 ADDITIONAL FIRST FLOOR AREA = 7.28m<sup>2</sup>  
 EXISTING SECOND FLOOR AREA = 192.25m<sup>2</sup>  
 ADDITIONAL SECOND FLOOR AREA = 8.26m<sup>2</sup>  
 EXISTING ATTIC AREA = NIL  
 ADDITIONAL ATTIC AREA = 51.13m<sup>2</sup>

ALLOWABLE FSR = 0.9:1 = 306.963m<sup>2</sup>

EXISTING GROSS FLOOR SPACE AREA = 576.75m<sup>2</sup>  
 EXISTING FLOOR SPACE RATIO = 576.75m<sup>2</sup>/341.07m<sup>2</sup> = 1.69:1  
 PROPOSED GROSS FLOOR SPACE AREA = 667.98m<sup>2</sup>  
 PROPOSED FLOOR SPACE RATIO = 667.98m<sup>2</sup>/341.07m<sup>2</sup> = 1.96:1

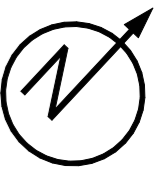
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Project  
**NEW ATTICS IN EXISTING ROOF SPACE**  
 144 Warners Ave Bondi Beach NSW

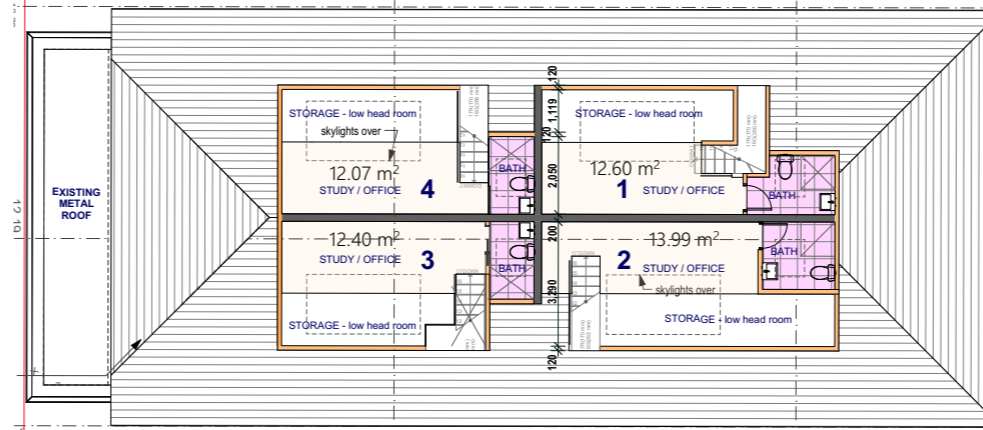
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**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:  
**AREA CALCULATIONS**  
 Sheet No.  
**144W-10**

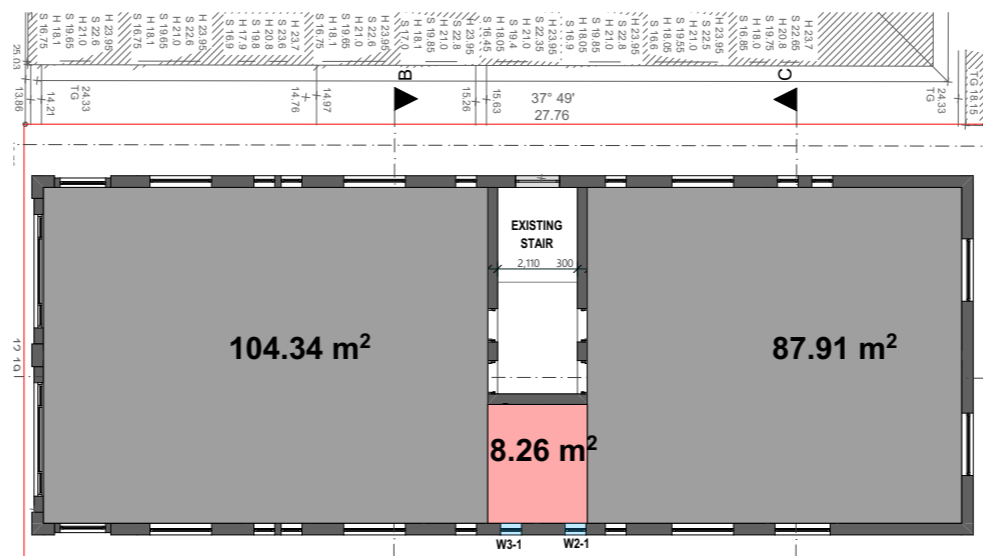
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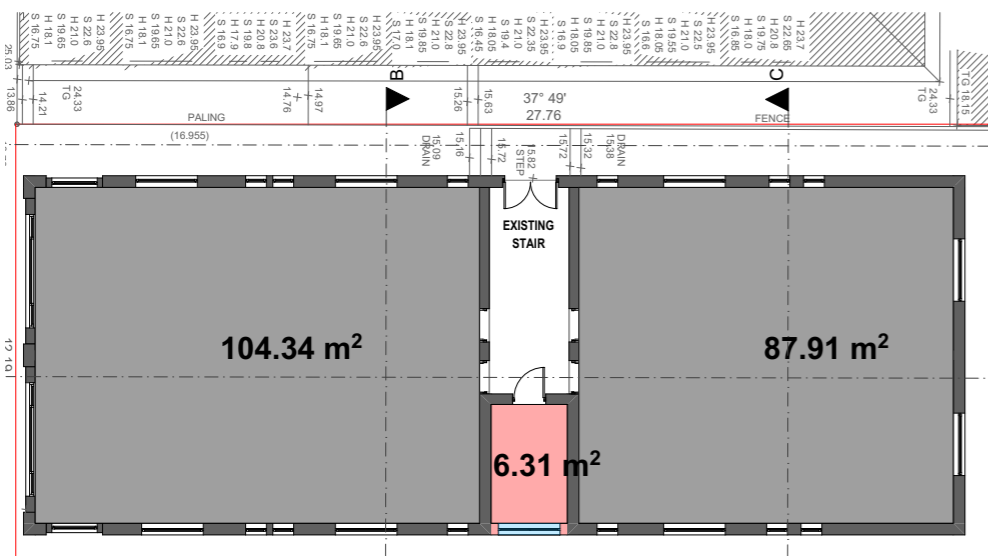
Plot Date: Thursday, 10 December 2020



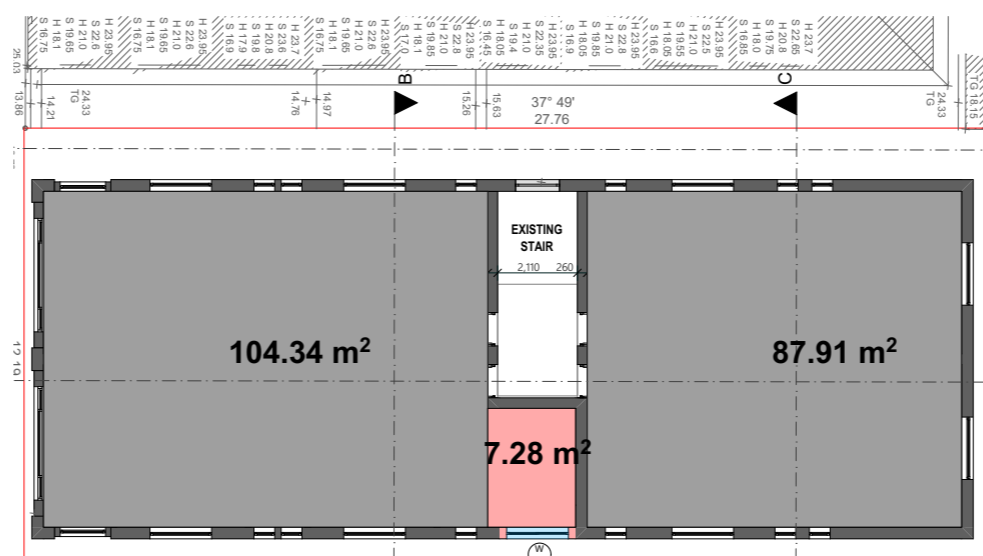
**4 ATTIC 1:200**



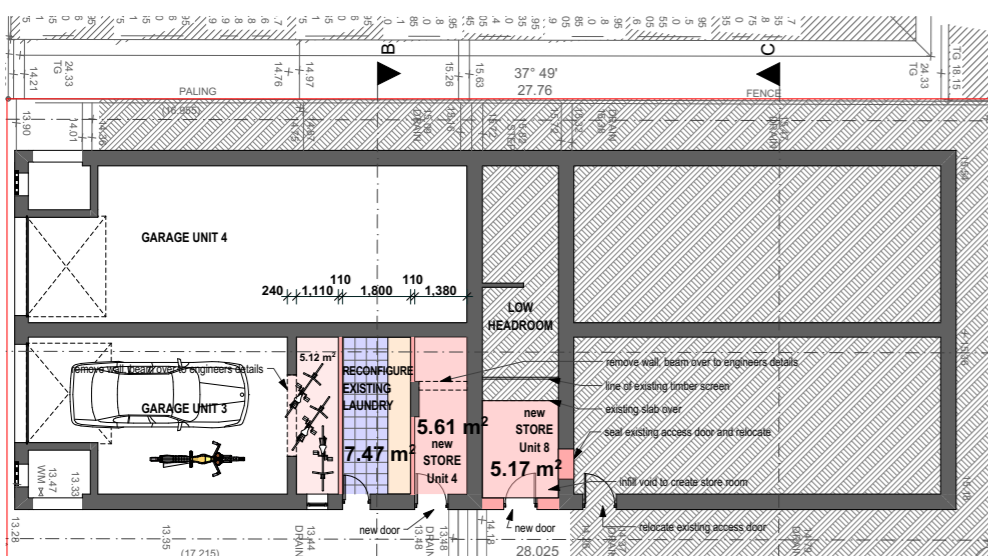
**3 SECOND FLOOR 1:200**



**1 GROUND FLOOR 1:200**

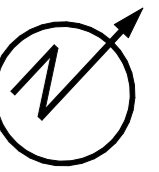


**2 FIRST FLOOR 1:200**



**5 BASEMENT 1:200**





Rev	Description	Date
D	DELETE DORMERS	1/12/2020

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ROOF SPACE  
144 Warners Ave Bondi Beach NSW**

Status  
**DEVELOPMENT APPLICATION - S8.2A**

Drawing Title:

**3D VIEWS**

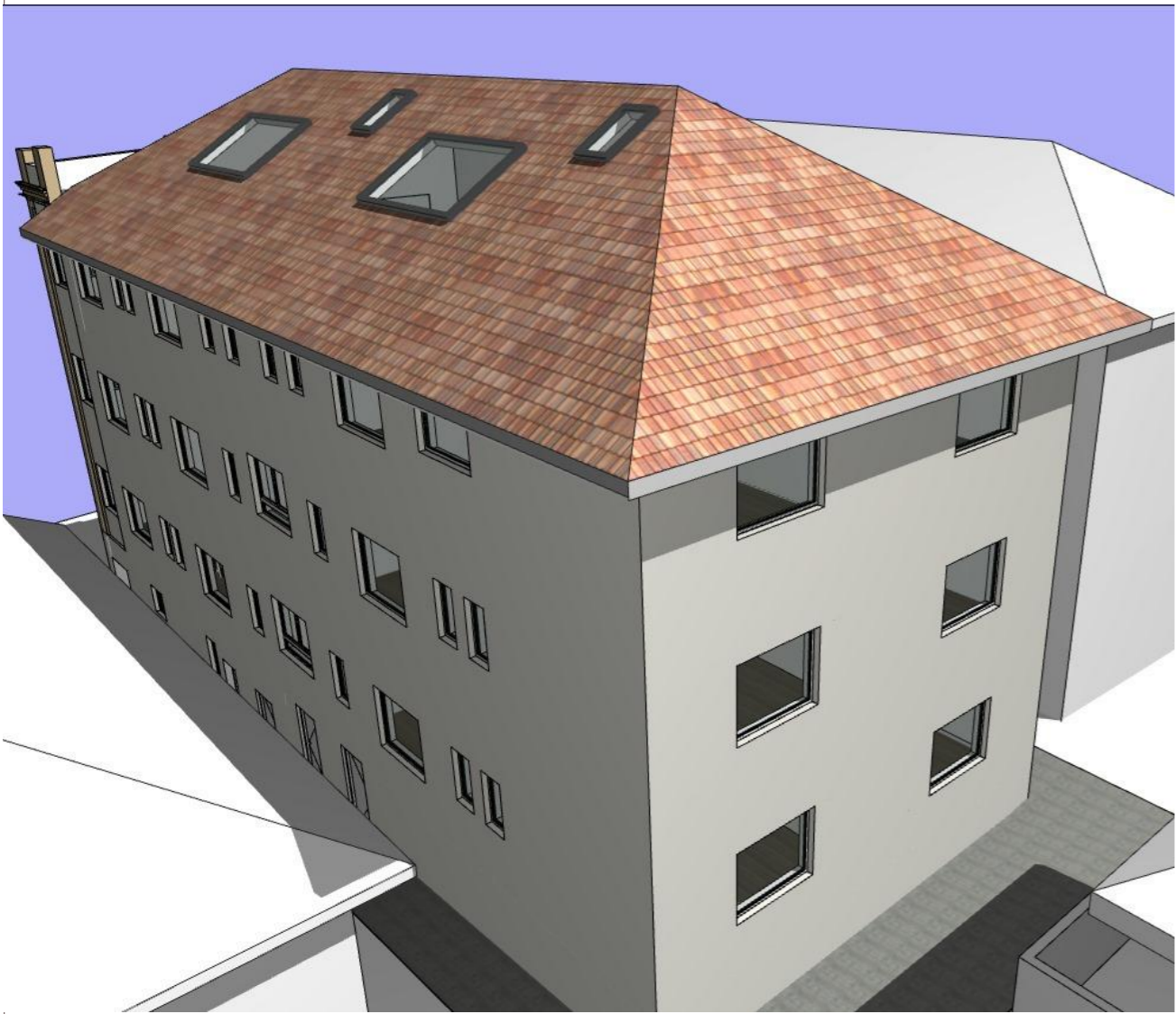
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AY	AS/DRB	1:100 U.N.O	<b>D</b>

1:200 1:100 1:50 1 METRE INCREMENTS

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**AMENDED PLANS**

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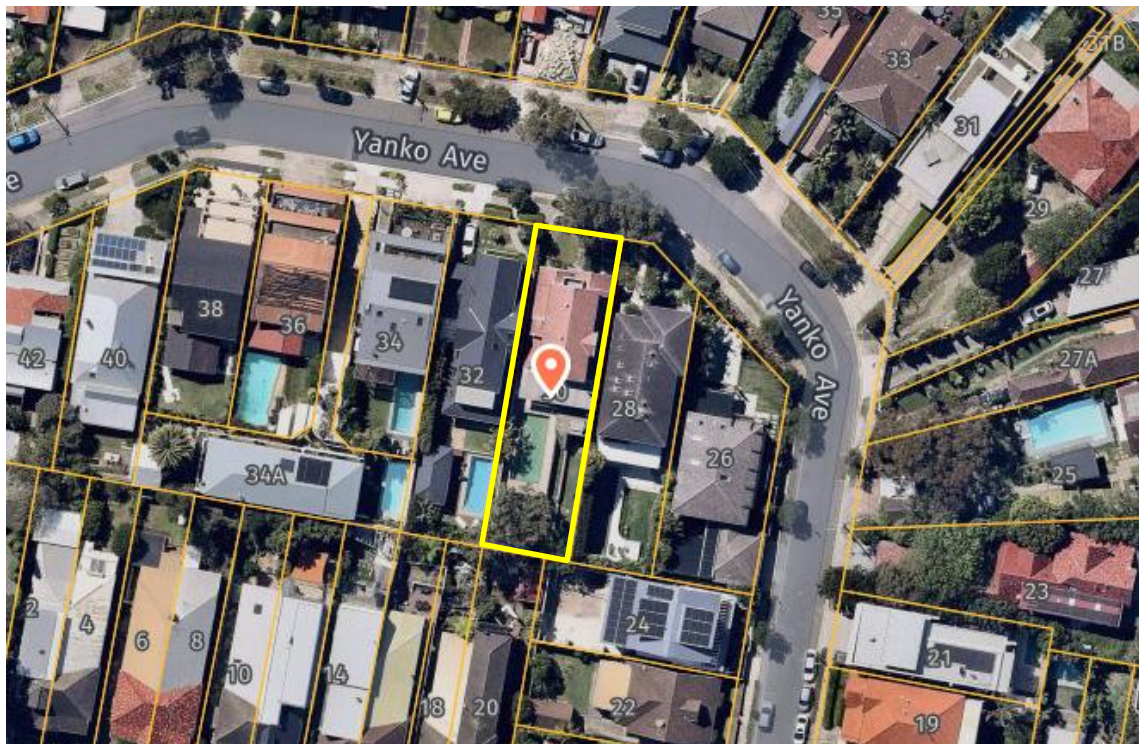




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-328/2020
<b>Site address</b>	30 Yanko Avenue, BRONTE
<b>Proposal</b>	Alterations and additions to dwelling including internal reconfiguration, demolish and replace and extend existing first floor and extend lower ground floor level containing parking, cellar and laundry
<b>Date of lodgement</b>	08/10/2020
<b>Owner</b>	Mr A R Deverell & Mrs I E Inder
<b>Applicant</b>	Cape Cod Australia Pty Ltd
<b>Submissions</b>	Two
<b>Cost of works</b>	\$1,408,022
<b>Issues</b>	Height, FSR, Design, Inadequate clause 4.6 variation request, Amenity
<b>Recommendation</b>	That the application be REFUSED

**Site Map**



(Source: Nearmap, 2020)

## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 6 November 2020 and 19 January 2021.

The site is identified as Lot U in DP 9910, known as 30 Yanko Avenue, Bronte. The site is generally rectangular in shape with a northern (front) boundary of 12.19m, southern (rear) boundary of 12.2m, eastern (side) boundary of 46.9m and western (side) boundary of 46.85m, resulting in an area of 571.2m<sup>2</sup> (survey). The site has a slight fall from north to south by approximately 1m.

The site is occupied by a two-storey inter-war bungalow dwelling with a later first floor addition, of brick and clad timber construction. Vehicular access is provided from Yanko Avenue, with an integrated garage located at the lower-ground level. An elevated swimming pool is located in the rear yard. The site does not comprise significant vegetation.

The subject site is adjoined by a two-storey detached dwelling to the east with garage below (28 Yanko Avenue) and a two-storey detached dwelling to the west (32 Yanko Avenue), which is a locally listed heritage item (I356). The locality is characterised by predominantly detached residential dwellings.



**Figure 1:** Site viewed from Yanko Avenue (front), looking south



**Figure 2:** Existing dwelling, viewed from rear yard, looking north.



**Figure 3:** Existing rear deck and adjoining dwelling (28 Yanko Avenue), looking east



**Figure 4:** Adjoining dwelling (28 Yanko Avenue), viewed from existing first-floor front balcony, looking east



**Figure 5:** Adjoining dwelling (32 Yanko Avenue), viewed from existing first-floor rear windows, looking south-west



**Figure 6:** Adjoining dwelling (32 Yanko Avenue) viewed from existing first-floor front balcony, looking south-west



**Figure 7:** Existing garage, looking south



**Figure 8:** Adjoining dwelling (28 Yanko Avenue) viewed from Yanko Avenue, looking south-west



**Figure 9:** Adjoining dwelling (32 Yanko Avenue) viewed from Yanko Avenue, looking south-east

## 1.2 Relevant History

### Details of approved development

- **DA-427/2005:** alterations and additions including a rear timber deck, approved 16/09/2005. Subsequent construction certificate CC-237/2006, approved 06/06/2006.
- **DA-427/2005/A:** modification to alter window openings and enlarge front balcony, approved 19/07/2007.

### Application history

On 1 December 2020 the application was deferred for the following reasons:

- Building height: the proposal exceeds the height of building (HOB) development standard. Recalculation of the proposed building height and a Clause 4.6 variation request justifying the exceedance was requested.
- Gross floor area (GFA) and floor space ratio (FSR): the proposal exceeds the FSR development standard. Recalculation of the proposed FSR and a Clause 4.6 Variation Request justifying the exceedance was requested.
- First-floor addition form and design: design amendments to the first-floor roof were recommended by Council's Heritage Architect and Urban Design Advisor.
- Overshadowing: additional information on the shadow diagrams was requested.
- Additional information on the architectural plans were requested.

On 16 December 2020 amended plans and additional information were submitted by the applicant. Specifically, the proposal was amended to:

- Reduce the pitch of the first-floor roof.
- The eastern and western gables have been aligned, as well as windows W5 and W16 on the northern elevation, to maintain symmetry of the first-floor addition.
- The gables at the northern, eastern and western elevations comprise vertical battens and single cladding to match the existing ground floor.

The amended plans did not warrant re-notification of the application as there were no design changes that would result in a greater impact.

## 1.3 Proposal

The proposal seeks consent for substantial alterations and additions to the existing dwelling, including:

### Lower Ground Floor / Garage Level

Reconfiguration and extension by removing the internal dwarf walls enclosing the existing garage and creating internal access from the garage to the rear of the building where a laundry will be provided with direct access to the rear. Excavation is also proposed to create internal access stairs to the ground floor and rear and a new wine cellar.

Various works to the front of the site, including demolishing existing retaining walls and steps, excavation within footprint of driveway and reconstruction.

### Ground Floor

Demolition of internal walls and reconfiguration to provide for open plan kitchen and living; dining and lounge; and bedroom with ensuite; and a separate bathroom. Replacement of windows and doors and

an extension of the existing deck to the rear with 1.6-2.1m solid high privacy screen with an additional 0.23m picket fence above on the eastern side (extending 4.6 to 5m from ground level).

### First Floor

Demolition of the first floor and a larger reconstruction, comprising a master bedroom with walk in robe and ensuite; three x bedrooms and a bathroom. A balcony is proposed to the front and to the rear, with full height walls to either side.

This first-floor addition is to be of lightweight timber framed construction with 75mm thick polystyrene base sheeting with an applied texture coating resembling painted cement render. The roof of the addition will be a hipped roof structure, with a gable feature covered with terracotta roof tiles.

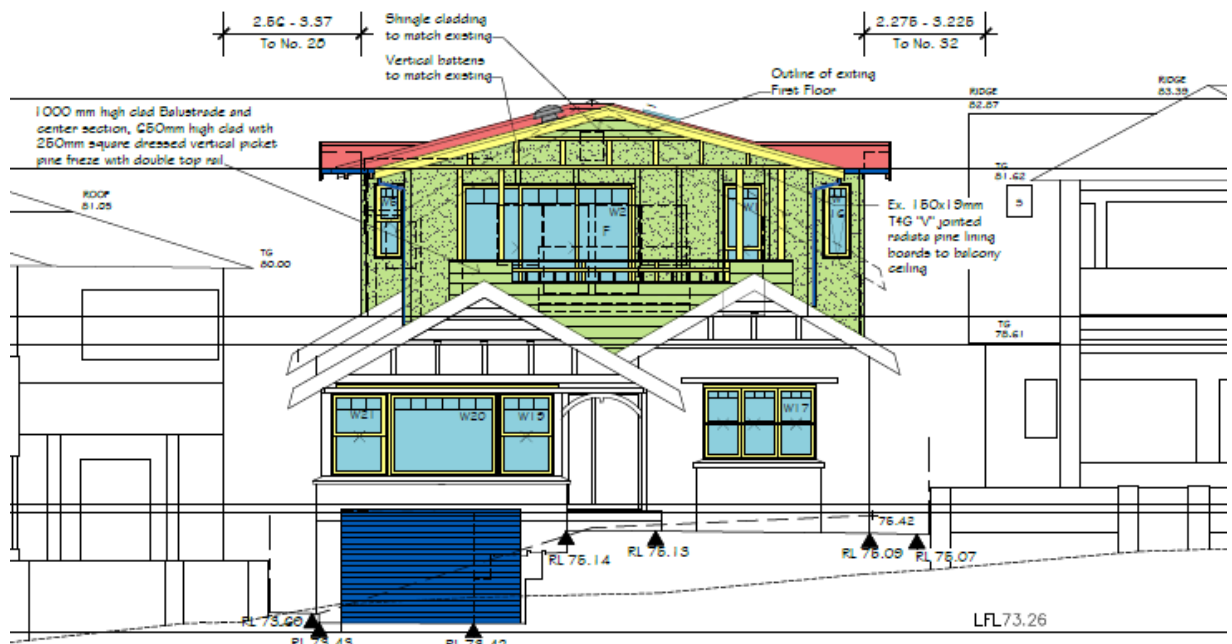


Figure 10: Proposed north (front) elevation.

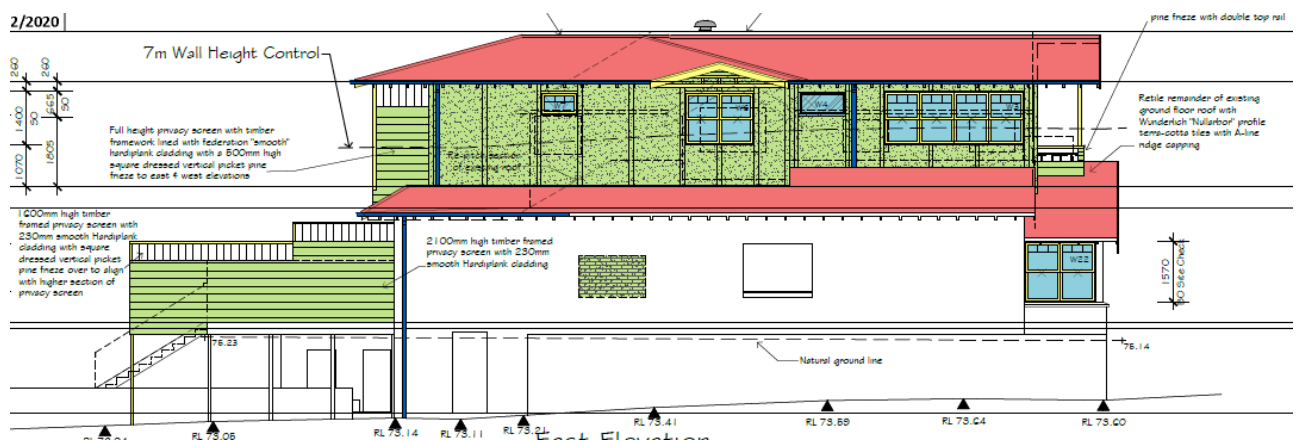


Figure 11: Proposed east elevation.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application. The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

#### 2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

#### 2.1.3 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is generally consistent with the aims of the Waverley LEP 2012.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Low Density Residential	Yes	The proposal is defined as alterations and additions to a 'dwelling house', which is permitted with consent in the R2 zone. The proposal is generally consistent with the objectives of the zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings (HOB) <ul style="list-style-type: none"> <li>8.5m</li> </ul>	No	9.87m (16% exceedance)  The applicant has stated that there is a <i>minor localised section</i> towards the front (north); however, fails to calculate the remainder of the eastern elevation, which all exceeds the height limit. The applicant has taken the calculation from natural and not existing ground level (EGL) as required by the Height definition of the Waverley LEP 2012.

Provision	Compliance	Comment
4.4 Floor space ratio (FSR); and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> <li>• 0.5:1 / 285.6m<sup>2</sup></li> </ul>	<b>No</b>	0.57:1 / 323.16m <sup>2</sup> (37.56m <sup>2</sup> or 13% exceedance)
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the HOB and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	No	<p>The site is not a listed heritage item and is not located within a heritage conservation area; however, is located adjacent to an item of local heritage significance at 32 Yanko Avenue being the former site of Yanko House.</p> <p>The proposal has been reviewed by Council's Heritage officer and it is considered that the proposed works provide a less cohesive level of addition to the top floor than the existing.</p> <p>The standard of detailing to the first-floor addition remains poorly resolved in scale and articulation. The effort to reproduce the detail of the existing gable end does not maintain the detail and size of timber sections previously used and is not an acceptable response to the lower pitch of the new roof.</p> <p>Council's Heritage officer states that the proposal <i>'is akin to a contemporary project home and not an Inter-War bungalow and serves to negate efforts to refine articulation of the additions.</i></p>
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The subject site is identified as comprising 'Class 5' acid sulfate soils. No significant excavation is proposed for the subject site that would be expected to disturb acid sulfate soils on the site. The proposal complies with this clause of the Waverley LEP 2012.
6.2 Earthworks	Yes	The proposal includes minor excavation in association with the construction of the internal stairs and wine cellar at the lower-ground floor. The proposed earthworks are



Provision	Compliance	Comment
		acceptable given they will not result in adverse impacts on soil stability, and the existing and likely amenity of adjoining properties.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### **Clause 4.6 Exceptions to Development Standards – HOB**

The application seeks to vary the HOB development standard in Clause 4.3.

The site is subject to a maximum HOB control of 8.5m. The proposed development has a height of 9.86m, exceeding the standard by 1.36m equating to a 16% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the HOB development standard on the following basis:

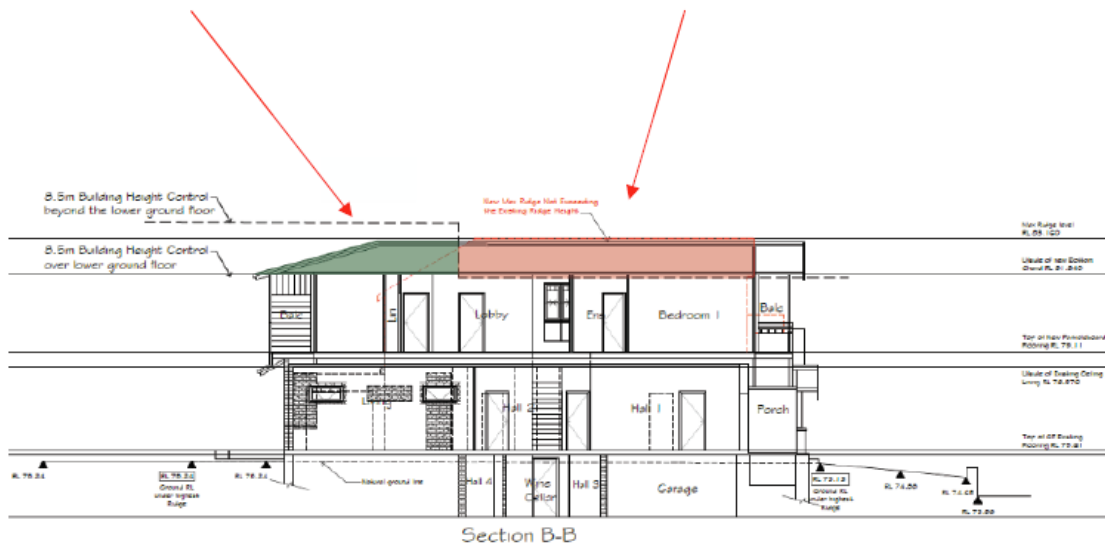
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

*The encroachment upon these numeric height controls is a direct result of the existing building structure on site that consists of basement, ground floor and a first floor. This development application seeks a replacement of First Floor allowing the resident to fully utilize the space to meet the needs of the growing family. Even though, there is localized height breach (sic) towards the front section, it can be clearly seen on the drawings that the maximum ridge of proposed first floor roof matches the existing roof height that is being replaced. The breach is exacerbated due to extent of the basement and it is evident from the plans that towards the rear section outside the footprint of the basement, the proposed addition is fully compliant with the height control.*

*The non-compliance occurs upon part of the proposed maximum ridge level front section of the proposed upper floor addition shown lined in red on the plan sketch below. Ground levels by survey and interpolation have calculated that the height control in the red lined area shaded red represents the localised non-compliance that relates to this request to vary a design standard with the fully compliant area shaded colored (sic) green. (Note, this diagram is disputed).*

**Fully compliant area coloured green**

**Roof of existing First Floor coloured in red**



The localised departure from the height control in the order of 1370mm is isolated to the front section of the maximum ridge of the proposed first floor addition. The proposed roof will observe the same height as of existing roof, resulting in a similar breach due to the extent of the basement. While towards the rear section outside of the footprint of basement, the building is fully compliant as the natural ground line is higher. All as detailed on the drawings submitted with the application.

- Objective 4.3 (1)(a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,

The Proposed development upper floor addition is set back and sited towards over the existing building footprint in order maintain a consistent street rhythm. Due to its location and the fall of the land, it does not obstruct the views of the properties that adjoin from the rear or side. It was designed while taking into consideration the value of the exiting views. The proposed development is designed to minimise view loss to the public and to adjoining and adjacent properties as much as possible while still providing opportunities for limited views from the proposed development. Views to the east towards Bronte Park will be generally unchanged as the proposed addition first floor roof height matches that existing roof height that is being replaced, views to the north, south and west are generally of neighbouring dwellings. Given the local street topography being a consistent east to west fall of land, narrow lot patterns and the presence of numerous two & three storey dwellings in the immediate area, an environment where a degree of obstruction to views is inevitable however given the limited opportunities for valued views the minor numeric departure in the height control will not cause any detrimental impact to neighbouring dwellings.

- Objective 4.3 (1)(d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

As mentioned within the report submitted with the application, the proposal being for alterations and an upper floor addition to an existing single occupancy dwelling will be in keeping with the desired residential character of the built form in the immediate locality. Irrespective of the minor localised height breach, the proposed development is compatible with the prevailing bulk and scale of development and existing dwellings in the locality.

*The surrounding context comprises of an eclectic mix of architectural styles and forms, ranges from two & three storey dwellings that likewise accommodates an upper floor component. The proposed, sympathetic three storey dwelling, will positively contribute to the streetscape and will be in keeping with other existing developments. In comparison to the surrounding built form the proposed development would blend into the existing backdrop of the other buildings that have utilised a similar amount or more of their building footprint in the immediate vicinity.*

*The proposal is therefore deemed to be compatible with the height, bulk and scale of the existing character and streetscape. The proposed upper floor component will contribute positively to the street network and public space. Therefore, the proposal is considered to be consistent with objective of the height development standard in clauses 4.3 Waverley LEP.*

- R2 Zone Objectives

*The building as altered maintains its presence as a single occupancy dwelling and would be entirely compatible with the prevailing and desired future character of the built form of the immediate locality. The proposal doesn't affect the existing facilities or services on the property and, as previously discussed in the statement of environmental effect and in the comments to the building height objectives above, the breach has minimal impact on the solar access and privacy amenity to its adjoining properties, in addition to maintaining the existing public and private views enjoyed by the subject and surrounding residences and having a no impact on the visual environment of the Bondi Beach area thus minimising any adverse effects as a result of the height breach described in this application.*

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

*The planning commentary in relation to the relevant clause objectives has already touched on the planning issues and grounds to support the variation. In this regard the extent of the departure is not unlike other proposals. From a planning perspective, the proposal itself creates no environmental planning impacts or issues for the adjoining properties or the streetscape. On environmental planning grounds, the subject site area was considered sufficient to accommodate the addition with no adverse impacts.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

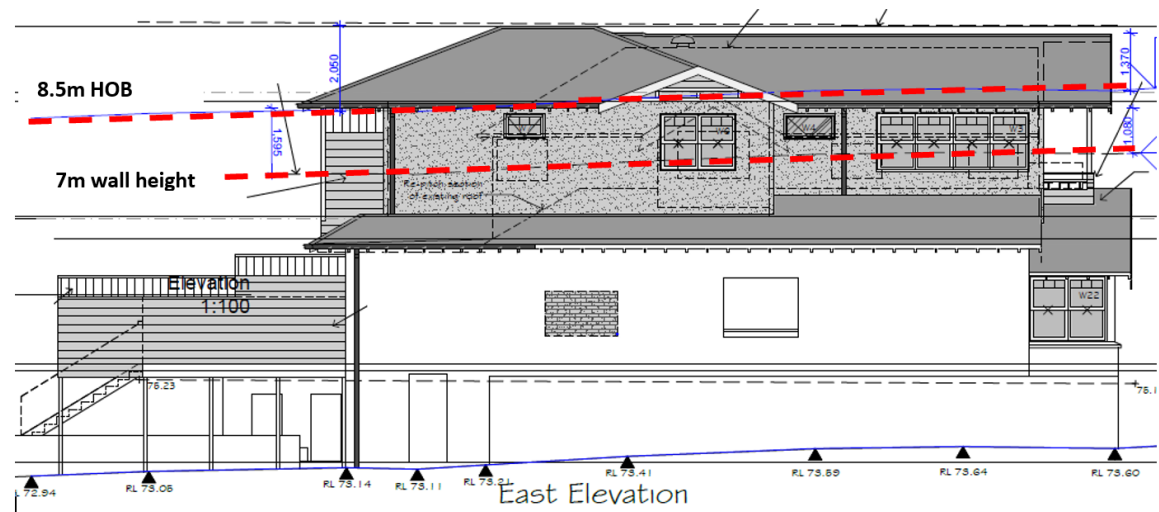
It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The applicant has primarily focused their commentary on the first justification/test of *Wehbe vs Pittwater Council (2007) LEC 827* that is *the objectives of the development standard are achieved despite the non-compliance with that standard*. The objectives of the HOB development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

Objectives (b) and (c) are not applicable to the subject site.

The applicant states the proposed height is consistent with the objectives of the height development standard and will not result in unreasonable impacts. Council disagrees with the contention that the relevant objectives of the standard are achieved and insufficient justification has been provided to support the breach.

The height of the existing first floor already exceeds the height control; the proposal is to demolish the existing addition and replace and extend the floor to the rear using the existing height breach to the front. However, the applicant has not correctly calculated the HOB and has not used the EGL for the calculation and states that the breach is limited to a 'minor localised height breach'. This is not correct, and the breach extends the length of the eastern elevation, as shown in **Figure 12** below.



**Figure 12:** East elevation showing correct HOB and Wall Height controls and the exceedance

The lower ground level has been set by the existing area that is to be the laundry. The replacement and extension of first floor therefore exacerbates this non-compliance by increasing the height and bulk further and expanding upon the non-compliance. The proposal will result in additional impacts to adjoining properties in regard to visual privacy and bulk and will not 'preserve the environmental amenity of neighbouring properties' thereby being contrary to objective (a). The extent of these impacts is discussed later in this report. The additional non-compliant floor space and its corresponding non-compliant height will further dominate the building and its neighbours. The proposal will be perceived as a non-cohesive element that is inconsistent and unsympathetic to the original architecture and design of the existing building.

The subject site sits higher than No. 28 Yanko Avenue, and will dominate this site, due to its large bulk and the inclusion of the required privacy screens to the rear balcony, which also sit above the height limit. The height variation will therefore manifest in visual and privacy impacts that are not compatible with the height, bulk and scale of the desired future character of the locality, contrary to objective (d) and is therefore not supported.

In addition, the applicant has referenced that the site will have *'no impact on the visual environment of the Bondi Beach area thus minimising any adverse effects as a result of the height breach described in this application.'* The site is situated approximately 3km from Bondi Beach and is not relevant.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard, stating that *'the proposal itself creates no environmental planning impacts or issues for the adjoining properties or the streetscape. On environmental planning grounds, the subject site area was considered sufficient to accommodate the addition with no adverse impacts.'* This is not agreed, the proposal will result in adverse environmental impacts as discussed above, through the massing and height of the proposal extending to the rear, particularly set against the lower No. 28 Yanko Avenue.

While the existing building already exceeds the HOB, further exceedance of this standard manifests in unreasonable impacts on the amenity of surrounding properties and is not supported. The additional non-compliant floor space and its corresponding non-compliant height will further dominate the building and its neighbours.

Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with the objectives of the particular standard as outlined above.

The proposed non-compliance has failed to address clause 4.6 (1)(b), (3)(a) and (b), and (4)(a). The non-compliance will result in an unacceptable outcome for the site, fails to demonstrate that compliance with the development standard is unreasonable or unnecessary, does not establish sufficient environmental planning grounds to justify the breach, fails to address the objectives of the height development standard and is not in the public interest.

Conclusion

For the reasons provided above, the requested variation to the HOB development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of HOB development standard.

**Clause 4.6 Exceptions to Development Standards – FSR**

The application seeks to vary the FSR development standard in Clauses 4.4 and 4.4A.

The site is subject to a maximum FSR control of 0.5:1. The proposed development has a FSR of 0.57:1, exceeding the standard by 37.56m<sup>2</sup> equating to a 13% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant’s written request has been provided to the Waverley Local Planning Panel for consideration.

Applicants Written Request - Clause 4.6(3)(a) and (b)

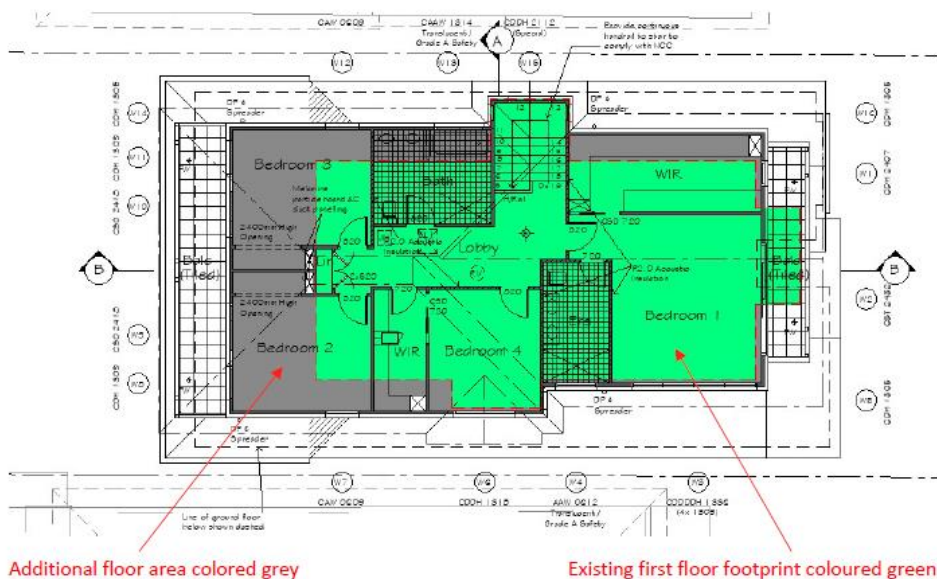
The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

*Strict compliance with the development standard is considered both unreasonable and or unnecessary in the circumstances of this case. It is argued that the proposal satisfies each of the relevant Objectives in Clause 4.4 (1) of WLEP 2012 as well as the objectives of Zone R2, low density residential where the subject property is located. Following each of the relevant LEP Objectives, is a planning commentary on how the proposal achieves this.*

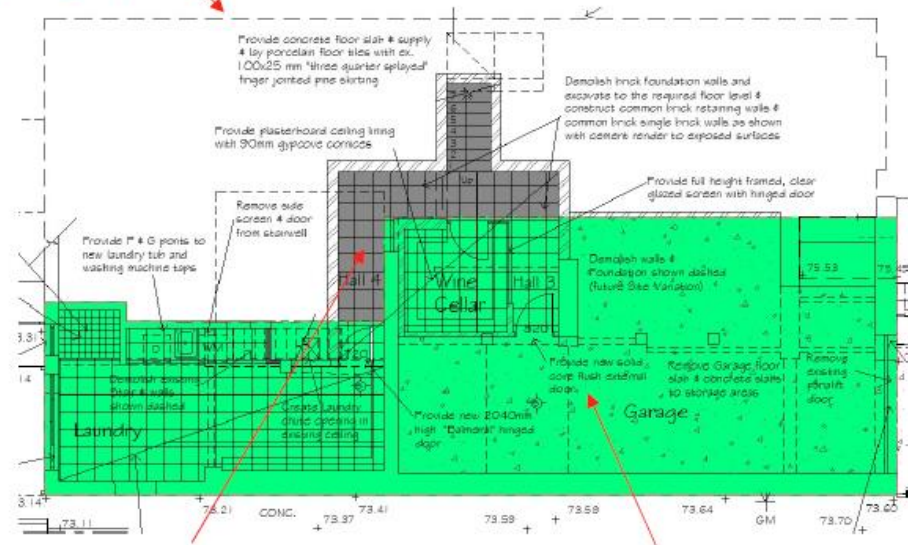
- Objective 4.4 (1)(b) to provide an appropriate correlation between maximum building heights and density controls,

*The proposed addition has a final maximum ridge level of RL 83.16 which is consistent and matching to that of the existing first floor component. Density is generally understood when setbacks, height and floor area are considered together. As noted above, the proposed height will remain consistent and matching of the existing first floor addition as requested by council. The front setbacks are compliant, the rear setbacks are compliant, and the side setbacks are compliant. The minor numerical departure of the FSR in the order of 13.15% is mainly confined to the rear part of the first-floor area as detailed in **figure 1** (below) and to the altered subfloor/basement area which remains within the existing buildings footprint as detailed in **figure 2** (below). Due to the locations where the FSR departure is mainly located and general compliance with development controls that define density the proposed addition ensures that the correlation between height and density is consistent with the existing first floor dwelling and neighbouring dwellings in the immediate vicinity.*



**Figure 1: Additional floor area location for first floor**

Existing building footprint



Additional floor area colored grey

Existing basement footprint coloured green

Figure 2: Additional floor area location for sub-floor/basement

- Objective 4.4 (1)(c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,

The subject site is located on Yanko Street, Bronte. This street and the surrounding area are established with numerous examples of dwellings of similar bulk and scale to that proposed. The current character of the locality is defined by two storey dwellings that have maximised their sites potential. The proposed addition will continue to be compatible with the current and future character of the locality and due to the observation of the existing building height and location of the additional floor area to the rear and subfloor/basement, there will be negligible detrimental impact as a result of the addition. The proposal is therefore deemed to be compatible with the bulk and scale of the existing character and streetscape. The proposed upper floor component will contribute positively to the street network and public space. Therefore, the proposal is considered to be consistent with objective of the FSR development standard in clause of 4.4 Waverley LEP.

- Objective 4.3 (1)(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

As mentioned above, the proposal being for alterations and an upper floor addition to an existing single occupancy dwelling will be in keeping with the predominant scale of neighbouring properties and the locality. As evident from the shadow diagrams prepared with the DA application, neighbouring dwellings will receive more than the minimum of 3 hours of direct sunlight to 50% of living areas and private open space required under WDCP 2012 – C2 -2.6 due to the advantageous north-south subdivisional pattern and strategic design. The surrounding context comprises of an eclectic mix of architectural styles and forms. The proposed, sympathetic two storey dwelling, will positively contribute to the streetscape and will be in keeping with other existing developments. In comparison to the surrounding built form the proposed development would blend into the existing backdrop of the other buildings that have utilised a similar amount or more of their building footprint in the immediate vicinity.

- Zone R2 Objectives

The building as altered maintains its presence as a single occupancy dwelling and would be entirely compatible with the prevailing and desired future character of the built form of the

*immediate locality. The proposal doesn't affect the existing facilities or services on the property and, as previously discussed in the statement of environmental effect and in the comments to the FSR objectives above, the departure from the control has minimal impact solar access and in addition to maintaining the existing public and private views enjoyed by the subject and surrounding residences and will have no impact on the visual environment of the Bronte area thus minimising any adverse effects as a result of the FSR departure described in this application.*

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:

*The planning commentary in relation to the relevant clause objectives has already touched on the planning issues and grounds to support the variation. In this regard, the extent of the departure is not unlike other proposals. From a planning perspective, the proposal itself creates no environmental planning impacts or issues for the adjoining properties or the streetscape. On environmental planning grounds, the subject site area was considered sufficient to accommodate the addition with no adverse impacts.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The applicant has primarily focused their commentary on the first justification/test of *Wehbe vs Pittwater Council (2007) LEC 827* that is *the objectives of the development standard are achieved despite the non-compliance with that standard*. The objectives of the FSR development standard are as follows:

*Clause 4.4 Floor space ratio*

*(1) The objectives of this clause are as follows—*

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*
- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

Objective (a) is not applicable to the proposed development.

The applicant has justified the non-compliance by stating the additional GFA of the proposal is limited to the rear of the first floor and the lower ground floor and states that the correlation between



height and density is consistent; however, the proposal also exceeds the height standard to the rear of the first floor, where the excess GFA is located.

Therefore, the non-compliance with the FSR development standard, coupled with the height non-compliance, demonstrates that the proposal is an inappropriate addition, particularly given the proposal will be perceived as a non-cohesive element that is inconsistent and unsympathetic to the original architecture and design of the existing inter-war building. The FSR variation will result in adverse streetscape and visual impacts that are not compatible with the bulk and scale of the desired future character of the locality, contrary to objective (c).

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard; the justification is limited to stating that the solar and streetscape impact is acceptable. However, the additional GFA within the first floor, pushes the building further to the south and a balcony is added. The balcony requires a solid wall at either end to prevent overlooking of neighbouring properties, which adds unnecessary bulk to the dwelling.

The departure of the proposal from the relevant planning standards serves to demonstrate the failure of the development to meet the objectives of the development standards representing an overdevelopment of the site and does not result in design excellence. The variation of the development standard is not in the public interest and the variation is inconsistent with the desired future character of the locality. The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with the objectives of the particular standard.

While it is acknowledged that the proposed development does provide for the housing needs of the community, the exceedance of the HOB and FSR development standards, and the overall planning outcome for the site to achieve this objective, as proposed, is not supported.

The non-compliance will result in an unacceptable outcome for the site, as it does not establish sufficient environmental planning grounds to justify the breach, fails to satisfactorily address the objectives of the FSR development standard and is not in the public interest.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR development standard.

**2.1.4 Waverley Development Control Plan 2012 (Waverley DCP 2012)(Amendment 9 - Effective 1 October 2020)**

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste and Recycling Management plan has been submitted with the application. The waste and recycling storage area is conveniently located for users of the site.
2. Ecologically Sustainable Development	Yes	A BASIX Certificate has been submitted with the application and is deemed acceptable, achieving compliance with the State regulated energy efficiency and water conservation targets. The proposal incorporates passive design and natural ventilation. Given the low scale of this development, the proposal is considered to adequately address the objectives of this part of the DCP.
3. Landscaping and Biodiversity	Yes	A Landscape Plan has been submitted with the application and is considered acceptable. The proposal retains the existing front and rear landscaping. The application was referred to Council's Tree Management Officer who raised no objection to the proposal, subject to recommended conditions of consent.
6. Stormwater	No	A Stormwater Management Plan has been submitted with the application. The application was referred to Council's Stormwater Design and Flood (Infrastructure Services) unit. The referral concluded that the stormwater plan is not satisfactory; however, this could be resolved through conditions of consent.
8. Transport	Yes	The proposal will make alterations to the existing garage and provide for an opening 3m in width; replace the existing driveway and retain the existing crossover. The proposal has been reviewed by Council's Traffic unit and is considered to be acceptable. Suitable conditions were recommended.
9. Heritage	<b>No</b>	This has been discussed above.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
11. Design Excellence	<b>No</b>	The proposal is not considered to achieve design excellence, as it will not result in a cohesive addition to the existing dwelling and the standard of detailing in its materials, scale and articulation is poorly resolved.

Development Control	Compliance	Comment
14. Excavation	Yes	The proposal includes minor excavation in association with the internal stairs and wine cellar at the lower-ground floor. The proposed excavation is acceptable in that it will not add visual bulk or the dwelling.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

The proposal is defined as a ‘Dwelling House’ in the Waverley LEP 2012.

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>• Appropriate scale</li> <li>• Does not detract from amenity of other dwellings or view corridors</li> <li>• ESD has been considered</li> <li>• Alterations &amp; additions are sympathetic in bulk &amp; scale to the character of the area</li> <li>• High design standard</li> </ul>	<b>No</b>	<p>The proposed first floor addition is not sympathetic in its bulk and scale and does not respect the existing dwelling.</p> <p>No significant ESD has can been incorporated into the proposal.</p> <p>It is considered that the new first floor addition is of a poor design standard and is not acceptable.</p>
<b>2.1 Height</b>		
<p>Pitched Roof dwelling house</p> <ul style="list-style-type: none"> <li>• Maximum external wall height of 7m</li> </ul>	<b>No</b>	<p>The proposal has the following wall heights:</p> <ul style="list-style-type: none"> <li>- 6.7m western side; and</li> <li>- 8.4m eastern side.</li> </ul> <p>The exceedance is justified by the applicant on the eastern elevation due to sloped topography and existing lower-ground floor level. However, this presents as a three-storey dwelling to No. 28 to the east and will be overbearing on this property.</p>
<b>2.2 Setbacks</b>		
<p>2.2.1 Front and rear building lines</p> <ul style="list-style-type: none"> <li>• Predominant front building line</li> <li>• Predominant rear building line at each floor level</li> </ul>	Yes	<p>The proposal maintains the front and rear building line at ground floor level and generally maintains the front building line at first-floor level.</p> <p>The proposal will extend the first-floor level further to the rear than the existing; however, will not extend past the upper floors of No’s 28 and 32; however, as the site is located at a higher level, the extension of the additional level will be overbearing on No. 28.</p>

Development Control	Compliance	Comment
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 1.2m</li> </ul>	<b>Yes</b>	The proposal maintains the lower ground and ground floor side setbacks of 0.9m.  The proposal provides for a minimum 1.2m setback for the first floor.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style &amp; proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> </ul>	<b>No</b>	As discussed above, the proposed first floor addition replacement, including windows, detailing and the balcony does not complement and is not cohesive with the retained ground floor of the inter-war dwelling and is not considered to enhance the streetscape.  The existing landscaping is generally retained.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> </ul>	Partial	The proposed windows on the eastern elevation and the balcony to the front at first floor level, are generally considered acceptable and are common within the streetscape. The proposed balcony has a depth of 1.2m and an area of 7.6m <sup>2</sup>  The new doors and windows to the ground floor are acceptable; however, the large extended deck and its privacy screen, which has a height from ground level of 4.6-5m and a length of 6.84m is required to prevent overlooking to No. 28, but is overbearing on this property and is not supported.  The new balcony to rear at first floor level has a depth of 1.465m and an area of 12.55m <sup>2</sup> , this exceeds the control. In addition, solid walls are required to be provided at either end of the balcony to prevent overlooking to the neighbouring properties. These solid walls are located above the HOB and result in additional mass to the already bulky building. <div data-bbox="798 1601 1436 1859" style="text-align: right;"> </div>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas</li> </ul>	Yes	The proposed development provides acceptable solar access to the site itself and neighbouring

Development Control	Compliance	Comment										
and principal open space areas on 21 June <ul style="list-style-type: none"> <li>Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June</li> </ul>		properties, with some additional shadowing falling on large rear yards and side windows.										
<b>2.7 Views</b>												
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks</li> </ul>	Yes	No significant public or private domain views will be unreasonably impacted by the proposal.										
<b>2.8 Car parking</b>												
2.8.2 Design Approach	Yes	Existing										
2.8.2 Parking rates <i>Maximum rates:</i> <ul style="list-style-type: none"> <li>2 spaces for 3 or more bedrooms</li> </ul>	Yes	The proposal provides for two car spaces.										
2.8.3 Location	Yes	Existing										
2.8.4 Design	Yes	Existing										
2.8.5 Dimensions <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	The garage achieves the minimum dimensions, measuring 10.3m x 3m.										
2.8.6 Driveways	Yes	Existing										
<b>2.9 Landscaping and open space</b>												
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	Yes	The Statement of Environmental Effects submitted with the application notes the following: <table border="1" data-bbox="826 1615 1417 1917"> <tbody> <tr> <td>Open space (40% / 228.48m<sup>2</sup>)</td> <td>67.84% / 387.52m<sup>2</sup></td> </tr> <tr> <td>Landscaped area (15% / 85.68m<sup>2</sup>)</td> <td>25.79% / 147.34m<sup>2</sup></td> </tr> <tr> <td>Private open space (25m<sup>2</sup>)</td> <td>&gt;25m<sup>2</sup> in rear yard</td> </tr> <tr> <td>Front open space (50% / 35.95m<sup>2</sup>)</td> <td>76.74% / 55.17m<sup>2</sup></td> </tr> <tr> <td>Front landscaped area (50% / 35.95m<sup>2</sup>)</td> <td>50.63% / 36.4m<sup>2</sup></td> </tr> </tbody> </table>	Open space (40% / 228.48m <sup>2</sup> )	67.84% / 387.52m <sup>2</sup>	Landscaped area (15% / 85.68m <sup>2</sup> )	25.79% / 147.34m <sup>2</sup>	Private open space (25m <sup>2</sup> )	>25m <sup>2</sup> in rear yard	Front open space (50% / 35.95m <sup>2</sup> )	76.74% / 55.17m <sup>2</sup>	Front landscaped area (50% / 35.95m <sup>2</sup> )	50.63% / 36.4m <sup>2</sup>
Open space (40% / 228.48m <sup>2</sup> )	67.84% / 387.52m <sup>2</sup>											
Landscaped area (15% / 85.68m <sup>2</sup> )	25.79% / 147.34m <sup>2</sup>											
Private open space (25m <sup>2</sup> )	>25m <sup>2</sup> in rear yard											
Front open space (50% / 35.95m <sup>2</sup> )	76.74% / 55.17m <sup>2</sup>											
Front landscaped area (50% / 35.95m <sup>2</sup> )	50.63% / 36.4m <sup>2</sup>											

## 2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

## 2.3 Suitability of the Site for the Development

The site is not considered to be suitable for the proposed development.

## 2.4 Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Participation Plan 2019 (Amendment 1)*.

Two submissions were received. The issues raised in the submissions are summarised and discussed below.

**Table 4: Summary of property addresses that lodged a submission**

Property
28 Yanko Avenue, Bronte
Bronte Beach Precinct Committee

**Issue:** *Elevated decks to the rear living area and bedrooms resulting in privacy and noise impacts*

**Response:** This has been discussed above and is not supported.

**Issue:** *Excessive height and bulk of addition and is not sympathetic to existing dwelling or streetscape.*

**Response:** Agreed. This has been discussed above and is recommended for refusal.

**Issue:** *Exceeds Height and FSR controls and drawings are misleading.*

**Response:** Agreed, the proposal exceeds both the height and FSR standards and a sufficient clause 4.6 has not been submitted to justify the breaches.

**Issue:** *Design and impact on streetscape.*

**Response:** This has been discussed above the proposed addition is not cohesive with the existing inter-war dwelling.

**Issue:** *Overshadowing of rear garden of No. 28.*

**Response:** There will be some overshadowing to the rear of No. 28; however will be limited to the afternoon in mid-winter.

## 2.5 Public Interest

It is considered that the proposal will have a detrimental effect on the public interest, and is recommended for refusal.

### **3. REFERRALS**

#### **3.1 Heritage Architect and Urban Planning Adviser**

The application was referred to Council's Heritage Architect, who does not support the proposal. This has been discussed above.

#### **3.2 Traffic and Development**

The application was referred to Council's Traffic Engineer. The referral raised no objection to the proposal, subject to recommended conditions of consent regarding construction management and finished level of the vehicular access.

#### **3.3 Stormwater Design & Flooding (Infrastructure Services)**

The application was referred to Council's Stormwater Design and Flooding unit. The referral concluded that the plans are unsatisfactory regarding stormwater details, noting there were a number of inconsistencies in the documentation. Standard conditions of consent are recommended to address this issue.

#### **3.4 Tree Management Officer**

The application was referred to Council's Tree Management Officer. The referral raised no objection to the proposal.

### **4. SUMMARY**

The proposal seeks consent for alterations and additions to the existing inter-war bungalow, including the demolition of the existing first floor and its replacement with an expanded level and further excavation within the lower ground to provide access to the ground floor level.

The proposal has been amended since first submitted to modify the first-floor addition design and presentation to the street. However, despite amendment, the proposal continues to provide a less cohesive level of addition to the top floor than currently exists. The standard of detailing to the first-floor addition remains poorly resolved in scale and articulation and is akin to a contemporary project home and not an inter-war bungalow.

The proposal exceeds both the HOB and FSR development standards in the Waverley LEP 2012 and the wall height control in the Waverley DCP 2012. A written request for each standard has been submitted seeking to justify the contravention of the development standards. However, the written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. Specifically, the request fails to demonstrate that compliance with the development standard is unreasonable or unnecessary and does not establish sufficient environmental planning grounds to justify the breach. For this reason alone, development consent cannot be granted.

The original application was notified and two submissions were received. The issues raised have been addressed within the body of the report.

There was no declared conflict of interest on the application. The proposal is recommended for refusal.

**DBU Decision**

The application and assessment report was reviewed by the DBU at the meeting on 22 December 2020 and the DBU determined:

(a) *The application is not acceptable and should be refused for the reasons in Appendix A.*

DBU members: *M Reid, A Rossi, B McNamara, E Finnegan*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the Development Application be **REFUSED** by the Waverley Local Planning Panel for the reasons contained in Appendix A:

**Report prepared by:**



Bridget McNamara  
**Manager, Development Assessment  
(North/South)**  
**Date: 21 January 2021**

**Application reviewed and agreed on behalf of  
the Development and Building Unit by:**



Mitchell Reid  
**Executive Manager, Development Assessment**  
**Date: 25 January 2021**

**Reason for referral:**

- 1 Departure from any development standard in an EPI by more than 10%



## **APPENDIX A – REASONS FOR REFUSAL**

Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan (WLEP) 2012, in particular, the following provisions:
  - a. Clause 4.3 *Height of buildings* (1)(a) and (d), and (2) as the proposal significantly breaches the height development standard which will diminish the environmental amenity of neighbouring properties and the locality.
  - b. Clause 4.4 *Floor space ratio* (1)(c) and (d) as the proposal breaches the floor space ratio development standard and has not adequately demonstrated that unreasonable amenity impacts to adjoining dwellings, including the appearance of visual bulk and visual privacy, have been minimised.
  - c. Clause 4.6 *Exceptions to development standards* (1)(b), 3(a) and (b) and (4)(a). The applicant's written request fails to justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the variation to the floor space ratio development standard. The proposed development is not in the public interest as it is inconsistent with the objects of the floor space ratio development standard and height of buildings development standard.
  - d. Clause 4.10 *Heritage* (1)(a), as the proposal, through its inappropriate design does not conserve the environmental heritage of Waverley.
3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B12 – *Design Excellence – 12.1 Design*, specifically objectives (a) and (c) and controls (a) and (b), as further resolution of the proposed first-floor addition is required to ensure cohesion with the existing dwelling.
  - b. Part C2 – *Low Density Residential Development*
    - (i) Section 2.1 *Height*, in particular objectives (a) and (b), as the height of the development does not appropriately to the topography of the site.
    - (ii) Section 2.3 *Streetscape and Visual Impact*, in particular objective (b), with regard to the proposed first-floor addition which is not cohesive or complement the retained ground floor inter-war bungalow.
    - (iii) Section 2.5 *Visual and acoustic privacy*, in particular objective (a) and controls (d) and (e) in that the proposal has not adequately demonstrated that the proposed extension of the

deck and the balcony will not result in unreasonable visual impacts to and from adjoining dwellings.

4. The proposal does not satisfy section 4.15 (1)(a)(iv) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy Schedule 1, Part 2 of the Environmental Planning and Assessment Regulation 2000, as insufficient documentation has been provided to properly assess the application, including but not limited to an adequate Statement of Environmental Effects prepared in accordance with Schedule 1, Part 2, clause (4) and clear, consistent plans.
5. The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will adversely impact upon the amenity of the locality and surrounding built environment.
6. The proposal is not considered to be in the public interest for the reasons outlined above and for the reasons outlined in public submissions, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.



BASIX COMMITMENTS	
CERTIFICATE NO. A379475	
FIXTURES AND SYSTEMS	
LIGHTING	MIN 40% OF NEW OR ALTERED LIGHT FIXTURES TO BE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT OR LIGHT-EMITTING-DIODE (LED) LAMPS
WET AREAS: NEW OR ALTERED	SHOWER HEADS 3 STAR RATED TOILETS 3 STAR RATED TAPS 3 STAR RATED
INSULATION REQUIREMENTS	
FLOOR ABOVE EXISTING DWELLING OR BUILDING	NIL
CONCRETE SLAB ON GROUND FLOOR	NIL
FLAT CEILING, PITCHED ROOF	CEILING: R 3.00 (UP) / ROOF: FOIL/SARKING DARK (SOLAR ABSORPTANCE >0.70)
EXTERNAL WALL: CAVITY BRICK	NIL
EXTERNAL WALL: EXTERNAL INSULATED FACADE SYSTEM (EIFS) (FACADE PANEL: 75mm)	NIL
EXTERNAL WALL: OTHER/UNDECIDED	R1.70 (INCLUDING CONSTRUCTION)
SUSPENDED FLOOR WITH ENCLOSED SUBFLOOR: FRAMED (R0.7)	R0.60 (DOWN) (OR R1.30 INCLUDING CONSTRUCTION)
INTERNAL WALL SHARED WITH GARAGE: CAVITY BRICK WALL (R0.67)	NIL
GLAZING REQUIREMENTS	
WINDOWS	
W1 - W3, W5, W7 - W14, W18, W24 - W29 & W31-W33	TIMBER or uPVC, SINGLE CLEAR, (U-VALUE: 5.71, SHGC: 0.66)
W6, W15 - W17, W19 - W23	TIMBER or uPVC, SINGLE PYROLYTIC LOW-E, (U-VALUE: 3.99, SHGC: 0.4)
W4	STANDARD ALUMINIUM, SINGLE CLEAR, (OR U-VALUE: 7.63, SHGC: 0.75)
W30	STANDARD ALUMINIUM, SINGLE PYROLYTIC LOW-E, (OR U-VALUE: 5.7, SHGC: 0.47)
S1	TIMBER, LOW E INTERNAL/ ARGON FILL/ CLEAR EXTERNAL, (U-VALUE: 2.5, SHGC: 0.456)
SHADING DEVICES	
WINDOWS	
W15, W33 & S1	NONE
W19 - W21 & W30	EAVE / VERANDAH / PERGOLA / BALCONY >= 450MM
W1, W2, W8 - W11, W18, W24 - W26, W31 & W32	EAVE / VERANDAH / PERGOLA / BALCONY >= 900MM
W14, W16, W17, W22, W23 & W29	PROJECTION /HEIGHT ABOVE SILL RATIO >= 0.23
W6	PROJECTION /HEIGHT ABOVE SILL RATIO >= 0.29
W3, W5, W7, W13, W27 & W28	PROJECTION /HEIGHT ABOVE SILL RATIO >= 0.36
W4 & W12	PROJECTION /HEIGHT ABOVE SILL RATIO >= 0.43
S1	NONE

**RECEIVED**  
**Waverley Council**

**Application No: DA-328/2020**

**Date Received: 17/12/2020**

SPECIFICATION SUMMARY	
STRUCTURAL TIMBER - All to ASA 1684.2	
WALLS: MGP 10 90 X 35 EXT. STUDS @ .600 CTS 70 X 35 INT. STUDS @ .600 CTS	ROOF: ROOF TRUSSES TO MANUFACTURERS DETAILS @ .600 CTS
FLOOR: 190x45mm MIN. FLOOR JOISTS	WIND LOAD W 28 N
FINISHES	
BRICKWORK	COMMON BRICKWORK FOR RENDER AND PAINT FINISH
FLOORING	19MM STRUCTURAL PARTICLEBOARD & 19MM "WET AREA" STRUCTURAL PARTICLEBOARD TO ALL WET AREAS 15MM STRUCTURAL PLYWOOD FLOORING WITH TILE FINISH TO FRONT BALCONY
CLADDING	75mm POLYSTYRENE WALL SHEETING OVER POLYSTYRENE CORE WALL INSULATION WITH APPLIED TEXTURE PAINT FINISH TO FIRST FLOOR ADDITION. COMBINATION FLAT FC SHEET CLADDING WITH EX. 75X25MM TREATED PINE BATTEN & 230MM SMOOTH HARDPLANK CLADDING GABLES
WINDOWS - STEGBAR KEYED LOCKS (TERRAIN: 3)	FRAME: WESTERN RED CEDAR FRAME: PREFINISHED ALUMINIUM
INSECT SCREENS: TO ALL NEW OPERABLE WINDOW SASHES	FRAME: PREFINISHED ALUMINIUM MESH: FIBREGLASS
ROOF COVERING	PROVIDE ALL NEW WUNDERLICH "NULLARBOR" PROFILE TERRA COTTA ROOF TILES TO PROPOSED FIRST FLOOR ADDITION WITH A-LINE RIDGE & HIP CAPPING
ROOF SARKING	FLAME RETARDANT DOUBLE SIDED ALUMINIUM FOIL
INSULATION (FIBREGLASS)	R3.0 BATTS TO FIRST FLOOR ADDITION CEILING AREA AND GROUND FLOOR RELINED CEILING AREAS OUTSIDE THE FOOTPRINT OF THE NEW UPPER FLOOR ADDITION R2.0 BATTS TO FIRST FLOOR EXTERNAL WALL FRAMES 12mm POLASTIC INSULATION BLANKET TO FIRST FLOOR EXTERNAL WALL FRAMES R2.0 ACOUSTIC BATTS TO BEDROOM 1/ENSUITE WALL, BEDROOM 1-WIR/LOBBY WALL, BEDROOM 4/LOBBY WALL, BEDROOM 4/ENSUITE WALL & BEDROOM 3/BATHROOM WALL
INTERNAL FIXINGS	DAR: FINGER JOINTED PINE SKIRTING: Ex. 150x25 "THREE QUARTER SPLAYED" LGF SKIRTING: Ex. 100x25 "THREE QUARTER SPLAYED" ARCHITRAVE: Ex. 100x25 "SQUARE DRESSED"
INTERNAL DOORS	CORINTHIAN 2340MM HIGH "BALMORAL - P.B.A.L.2"
STAIRCASE MAPLE TREADS & RISERS	TYPE: CLOSED TIMBER WIDTH: 1000mm
CUT STRINGER	RISE: 19 @ 185mm GOING: 240mm (260mm TREAD)
BARGE BOARDS	MATERIAL: DAR TIMBER
GUTTERS	TYPE: QUAD MATERIAL: PREFINISHED ZINCALUME GUTTER COLOUR: WHITE
DOWNPIPES	MATERIAL: PVC DOWNPIPE COLOUR: SCHOLARSHIP
HOT WATER UNIT	TWO (2) RINNAI INFINITY 26
PAINTING - REFER TO SPECIFICATION FOR THE EXTENT OF WORK	FIRST FLOOR EXTERNAL: BY CAPE COD FIRST FLOOR INTERNAL: BY CAPE COD  PAINTING TO ALTERATION AND RENOVATION WORK TO BE BY CAPECOD
FINISHED GROUND LEVELS SHOWN ON PLAN ARE SUBJECT TO SITE CONDITIONS. DO NOT SCALE OFF DRAWINGS. ALL DIMENSIONS SHOWN ARE THEORETICAL ONLY AND ARE SUBJECT TO SITE MEASURE DURING CONSTRUCTION. NO ALLOWANCE HAS BEEN MADE FOR SHRINKAGE OR MILLING.	
COPYRIGHT THIS DESIGN AND PRINT IS THE PROPERTY OF CAPE COD AND IS ISSUED FOR THE SOLE PURPOSE OF ENTERING INTO A BUILDING CONTRACT WITH THE COMPANY. IT MUST NOT BE USED OR REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION FROM THE COMPANY.	

SPECIAL NOTES	
<ul style="list-style-type: none"> <li>PROVIDE FOUR (4) SMOKE DETECTORS AS SHOWN</li> <li>ELECTRICIAN TO CHECK/ENSURE THE EXISTING SMOKE DETECTORS COMPLY WITH THE BUILDING CODE OF AUSTRALIA (NCC).</li> <li>AS PER THE NCC - ALL WET AREA WINDOWS TO HAVE GRADE-A SAFETY GLASS.</li> <li>PROVIDE MARINE GRADE BRICKS, MORTAR AND TIES IN ACCORDANCE WITH AS3700 AS SITE IS WITHIN 1KM OF OCEAN.</li> <li>CONNECT/INSTALL FIFTY NINE (59) DOWNLIGHT FITTINGS, TWENTY ONE (21) PENDANT OR WALL MOUNTED FITTINGS &amp; TWO (2) FANLIGHT/HEATER UNIT (AS SUPPLIED BY THE OWNER).</li> <li>SUPPLY &amp; CONNECT THREE (3) HEATED TOWEL RAIL &amp; TWO (2) IN-LINE DUCTED EXHAUST FANS.</li> <li>REFIT THREE (3) OF THE EXISTING GABLE FINIALS AND SUPPLY AND INSTALL TWO (2) ADDITIONAL TERRACOTTA GABLE FINIALS.</li> </ul>	

WORKS BY OWNER	
<ul style="list-style-type: none"> <li>REMOVAL &amp; INSTALLATION OF T.V ANTENNA IF REQUIRED &amp; CONNECTION TO NEW AND EXISTING TV POINTS.</li> <li>CONNECTION OF NEW COAXIAL CABLE "T.V.POINT" TO EXISTING AND/OR NEW T.V. AERIAL</li> <li>PHONE AND/OR DATA CABLING.</li> <li>SUPPLY &amp; INSTALLATION OF INSECT SCREEN DOOR TO EXTERNAL HINGED DOOR IF REQUIRED.</li> <li>SUPPLY OF SHAVING CABINETS.</li> <li>SUPPLY &amp; INSTALLATION OF ALL LAUNDRY FLOOR CABINETS.</li> <li>SUPPLY AND INSTALLATION OF DOOR JAMB, DOOR ARCHITRAVES, DOORS, DOOR FURNITURE, SHELVING AND HANGING RAILS TO THE BUILT-IN ROBE RECESSES.</li> <li>SUPPLY AND INSTALLATION OF SHELVING AND HANGING RAILS TO THE WALK IN ROBES.</li> <li>SUPPLY AND INSTALLATION OF JOINERY AND FIT OUT OF LAUNDRY CHUTE.</li> <li>ALTERATION TO EXISTING AND/ OR SUPPLY AND INSTALLATION OF NEW DUCTED AIR-CONDITIONING.</li> <li>ALTERATION TO EXISTING AND/OR SUPPLY AND INSTALLATION OF NEW UNDER FLOOR HEATING.</li> <li>SUPPLY AND LAYING OF ENGINEERED FLOATING FLOORING TO THE WHOLE OF THE EXISTING GROUND FLOOR.</li> <li>ALL WORKS ASSOCIATED WITH THE SUPPLY AND INSTALLATION OF THE NEW FIREPLACE IF REQUIRED.</li> <li>ALL WORK ASSOCIATED WITH THE SUPPLY AND INSTALLATION OF THE NEW KITCHEN CUPBOARDS AND APPLIANCES AND SUPPLY/INSTALLATION OF ANY SPLASHBACKS.</li> <li>SUPPLY FIFTY NINE (59) DOWNLIGHT FITTINGS, TWENTY ONE (21) PENDANT OR WALL MOUNTED FITTINGS &amp; TWO (2) FANLIGHT/HEATER UNIT.</li> <li>IF REQUIRED, ADJUSTMENT TO EXISTING POOL FENCING</li> </ul>	

No.	ISSUE	DRAWN	DATE
F	AMENDED FOR COUNCIL	J.C.	15-12-20
E	SECTION BB ADDED	A.T.M	16-11-20
D	BASIX ADDED & TO COUNCIL	J.C.	02-10-20
C	POV 23965	N.L.	14-08-20
B	TO CLIENT	J.C.	17-06-20
A	TECHNICAL	J.C.	25-05-20

DESIGN CONSULTANT: DAREK SZYMANSKI

**PROPOSED ADDITIONS & ALTERATIONS**

FOR MR R DEVERELL & DR I INDER

AT 30 YANKO AVENUE  
BRONTE 2024

COUNCIL: WAVERLEY

A.B.N. 54 000 605 407  
SUITE 41, 410 CHURCH STREET,  
NORTH PARRAMATTA 2151  
PHONE: (02) 9849 4444  
BUILDERS LICENCE NO. 5519

SHEET: 1 OF 13	JOB NO: 8046	F
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EXTERNAL PAINT SCHEDULE			
ITEM	BRAND eg. WATTYL	CODE	COLOUR
Window Hardware	Stegbar		TBC
Window Frame	Dulux		Vivid White
Insect Screen	Stegbar		Pearl White
Balcony Post	Dulux		TBC
Wall Cladding (Polystyrene)	Dulux		Scholarship
Wall Cladding (Hardiplank Nth Balcony)	Dulux		Vivid White
Wall Cladding (Hardiplank Privacy Screens & Deck)	Dulux		Vivid White
Barge Board	Dulux		Vivid White
Cover Battens	Dulux		Vivid White

ITEM	BRAND eg. WATTYL	CODE	COLOUR
Deck Post	Dulux		Vivid White
Deck Beam	Dulux		Vivid White
Downpipe	Dulux		Scholarship
Garage Door	Dulux		Vivid White
Gable Cladding	Dulux		Scholarship/Vivid White
Gutter	Ace		White
Handrail Frame	Dulux		Vivid White
Handrail Post	Dulux		Vivid White
Lining Boards	Dulux		Vivid White

Area Calculations:  
 Floor Space Ratio (FSR) 0.5:1  
 Site Area: 571.20m<sup>2</sup>

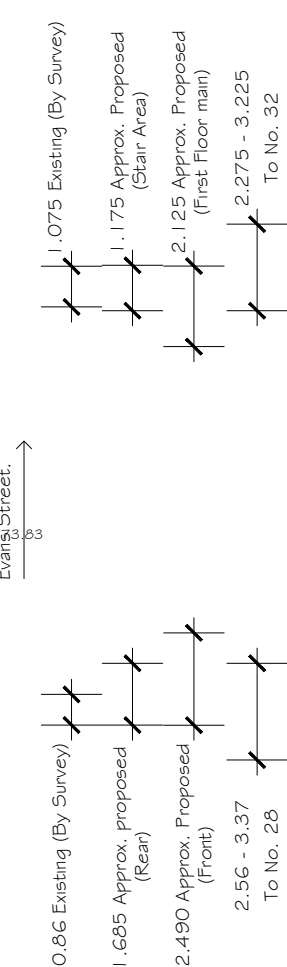
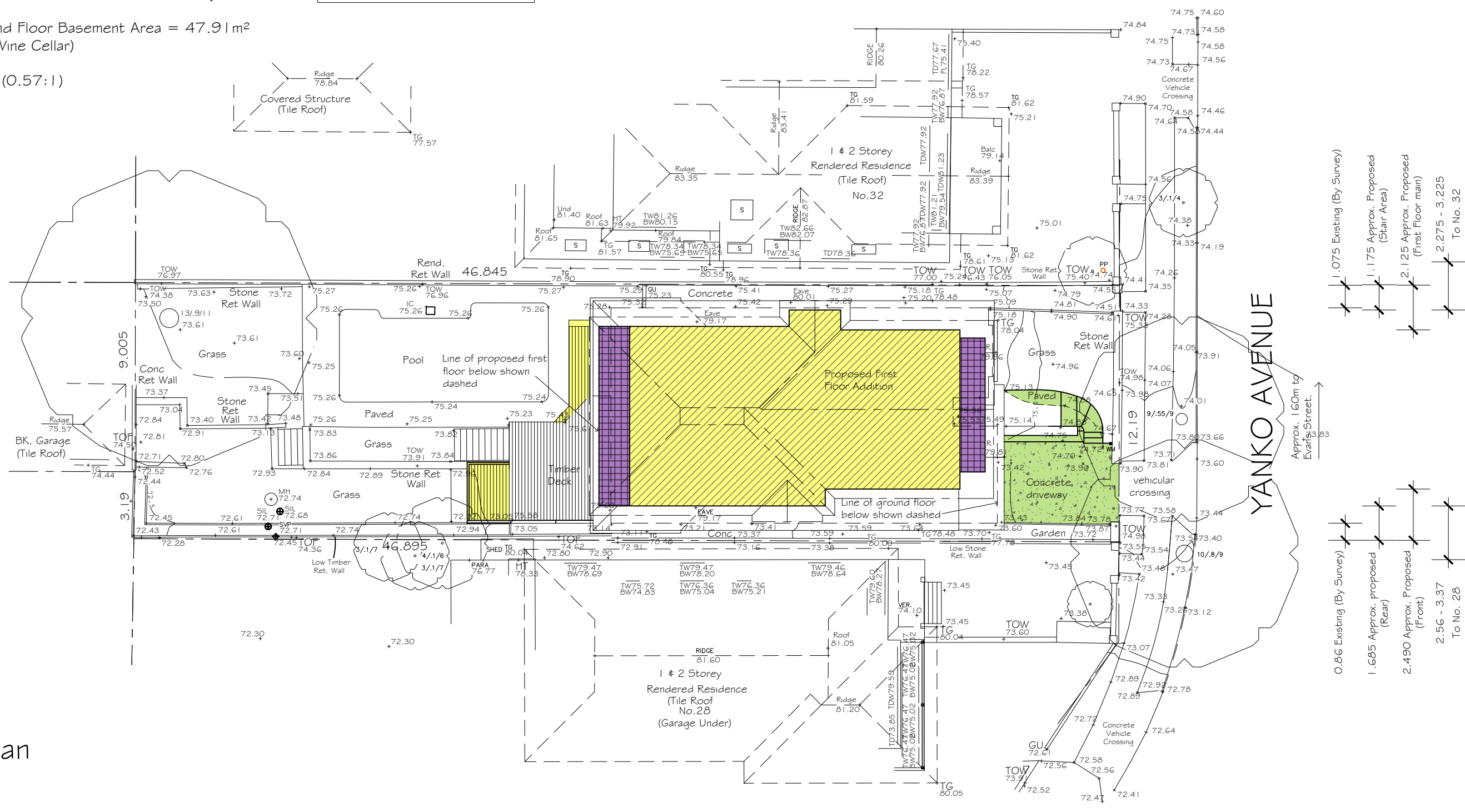
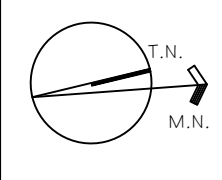
Ground Floor = 161.02m<sup>2</sup>  
 (Excluding Deck, Porch, Stair Void & Laundry Chute)

First Floor = 114.23m<sup>2</sup>  
 (Excluding, Balconies, Stair Void, AC Ducts & Laundry Chute)

Excluding Lower Ground Floor Basement Area = 47.91m<sup>2</sup>  
 (Excluding, Garage & Wine Cellar)

TOTAL = 323.16m<sup>2</sup> (0.57:1)

**RECEIVED**  
**Waverley Council**  
**Application No: DA-328/2020**  
**Date Received: 17/12/2020**



**Site Plan**

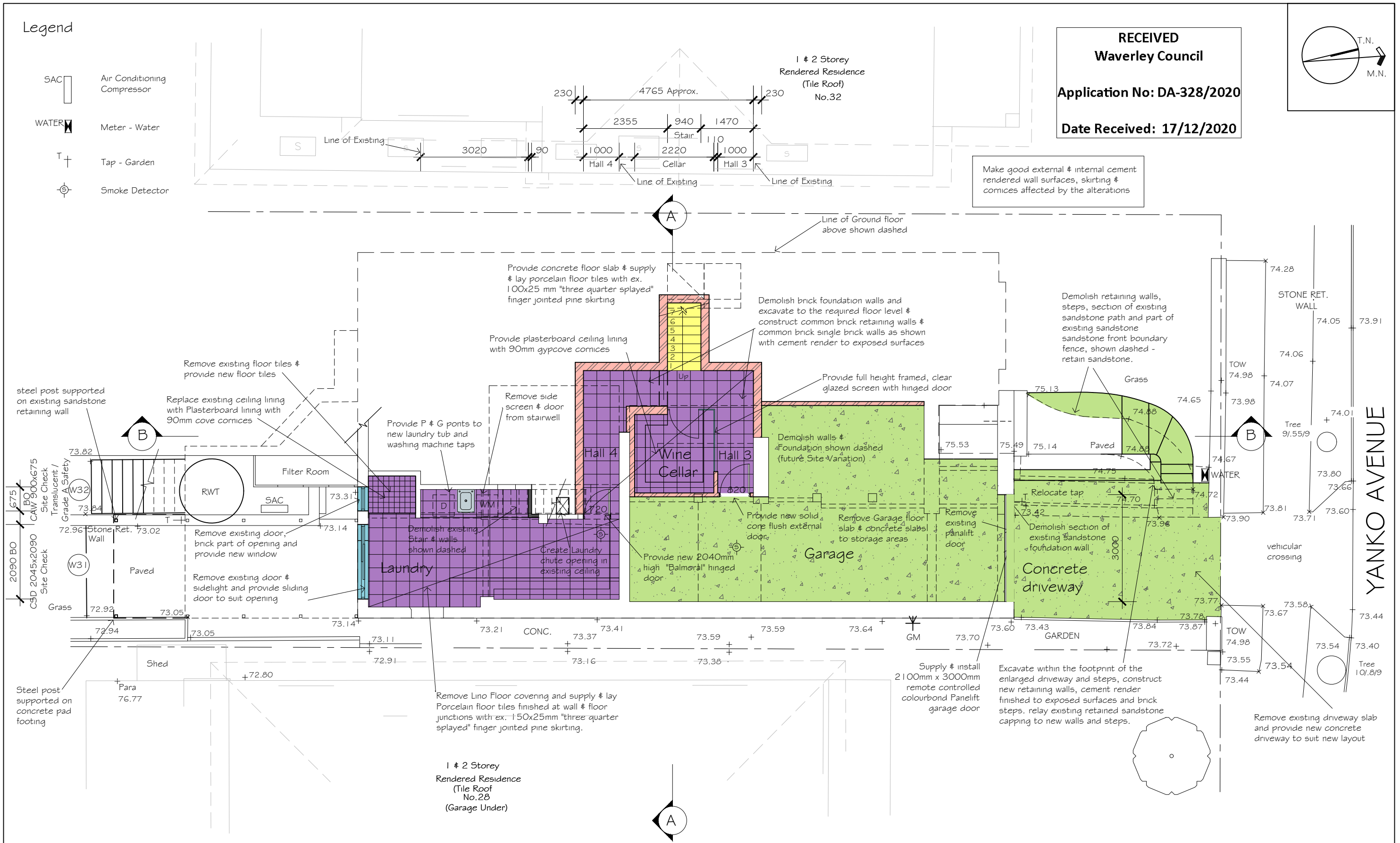
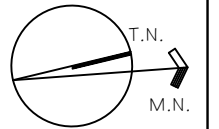
No. : 30  
 Lot. : U  
 DP : 9910  
 AREA : 569.1m<sup>2</sup> (By Title)  
 571.2m<sup>2</sup> (By Survey)

**AMENDED PLANS**

Legend

- SAC Air Conditioning Compressor
- WATER Meter - Water
- T Tap - Garden
- Smoke Detector


















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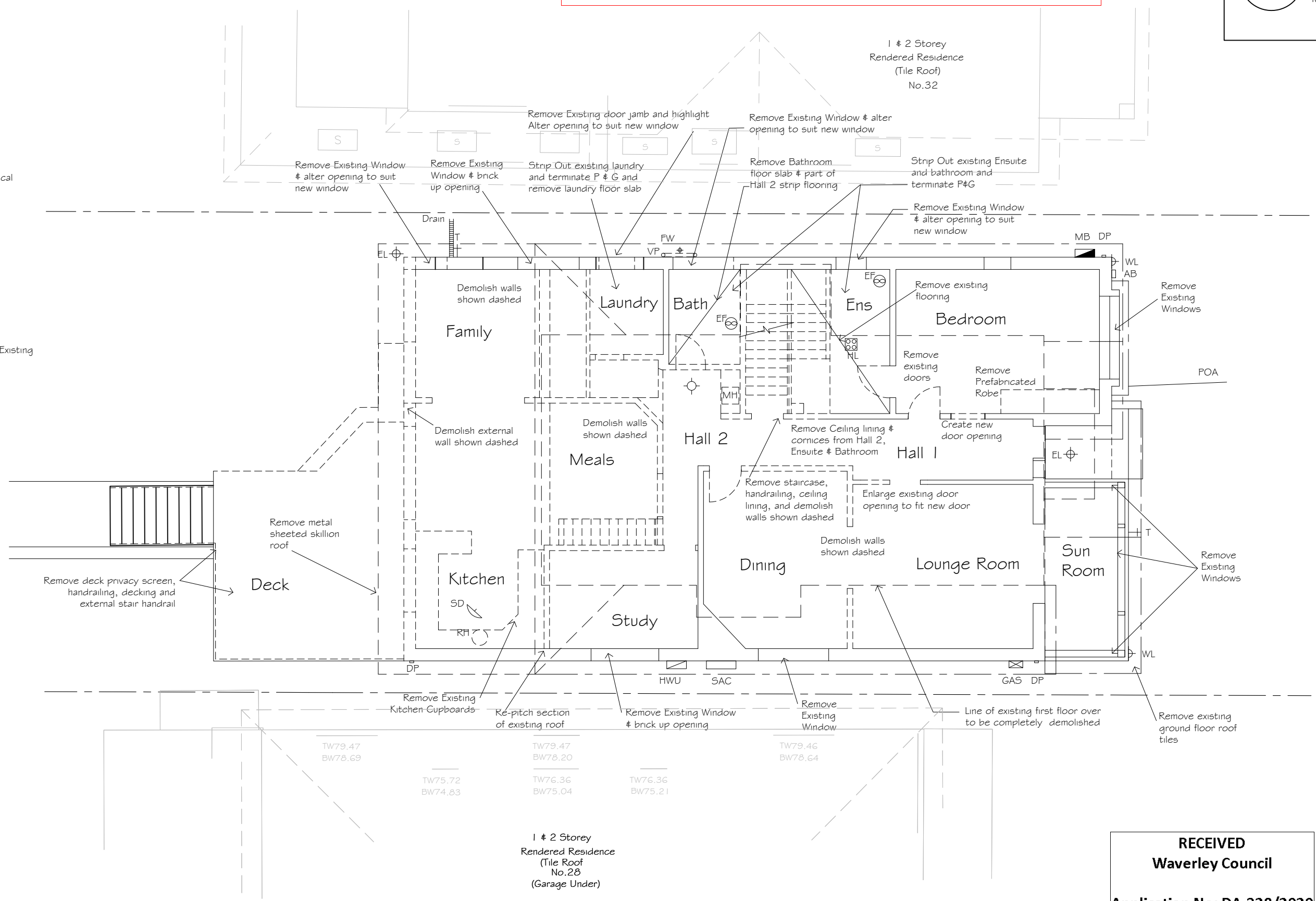
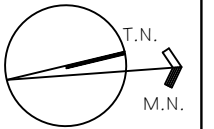
Proposed Lower Ground Floor Plan (Basement)

**AMENDED PLANS**

Legend

- SAC  Air Conditioning Compressor
- AB  Alarm Box
- HWU  Hot Water Unit Wall Mounted
- DP  Downpipe
- EL  Eave Light
- EF  Exhaust Fan
- HL  Heater/Light
- MB  Meter Box - Electrical
- GAS  Meter - Gas
- MH  Manhole
- RH  Range Hood
- SD  Satellite Dish
-  Smoke Detector - Existing
- T  Tap - Garden
- VP  Sewer Vent Pipe
- WL  Wall Light
- FW  Floor Waste

# AMENDED PLANS

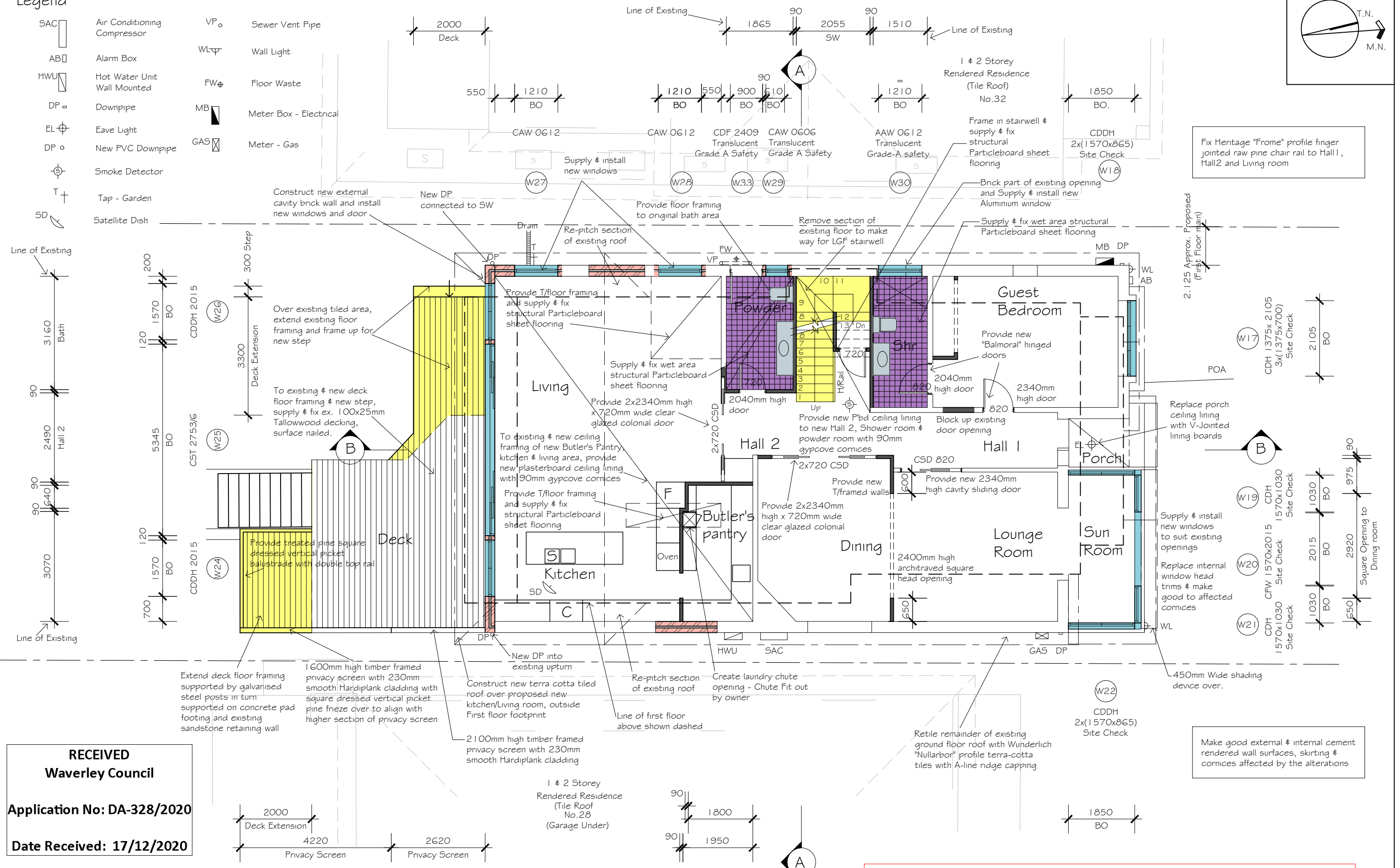
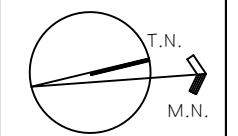


Existing Ground Floor - Demolition Plan

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**Legend**

- SAC Air Conditioning Compressor
- AB Alarm Box
- HWU Hot Water Unit Wall Mounted
- DP Downpipe
- EL Eave Light
- DP New PVC Downpipe
- Smoke Detector
- T Tap - Garden
- SD Satellite Dish
- VP Sewer Vent Pipe
- WL Wall Light
- FW Floor Waste
- MB Meter Box - Electrical
- GAS Meter - Gas












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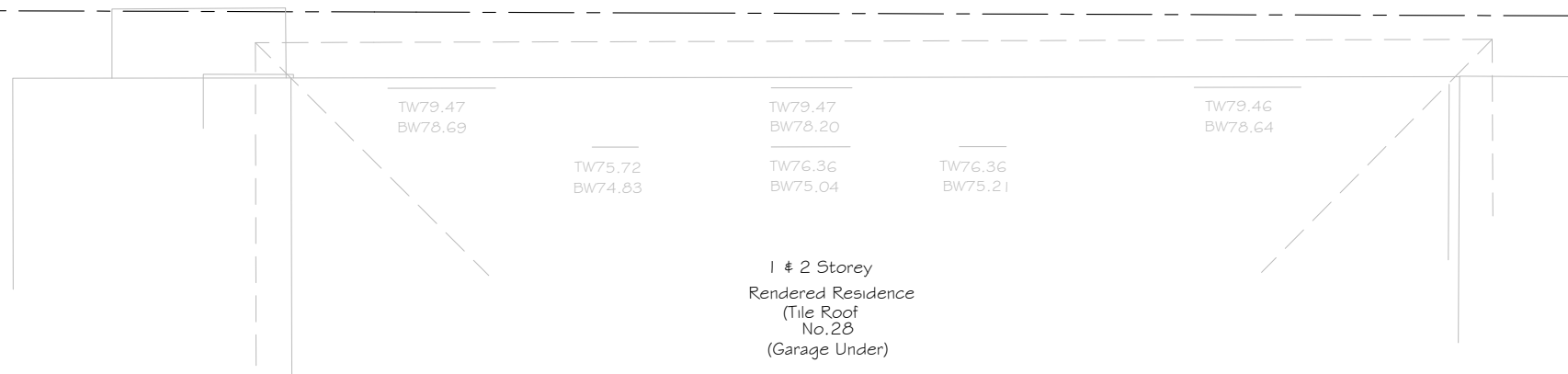
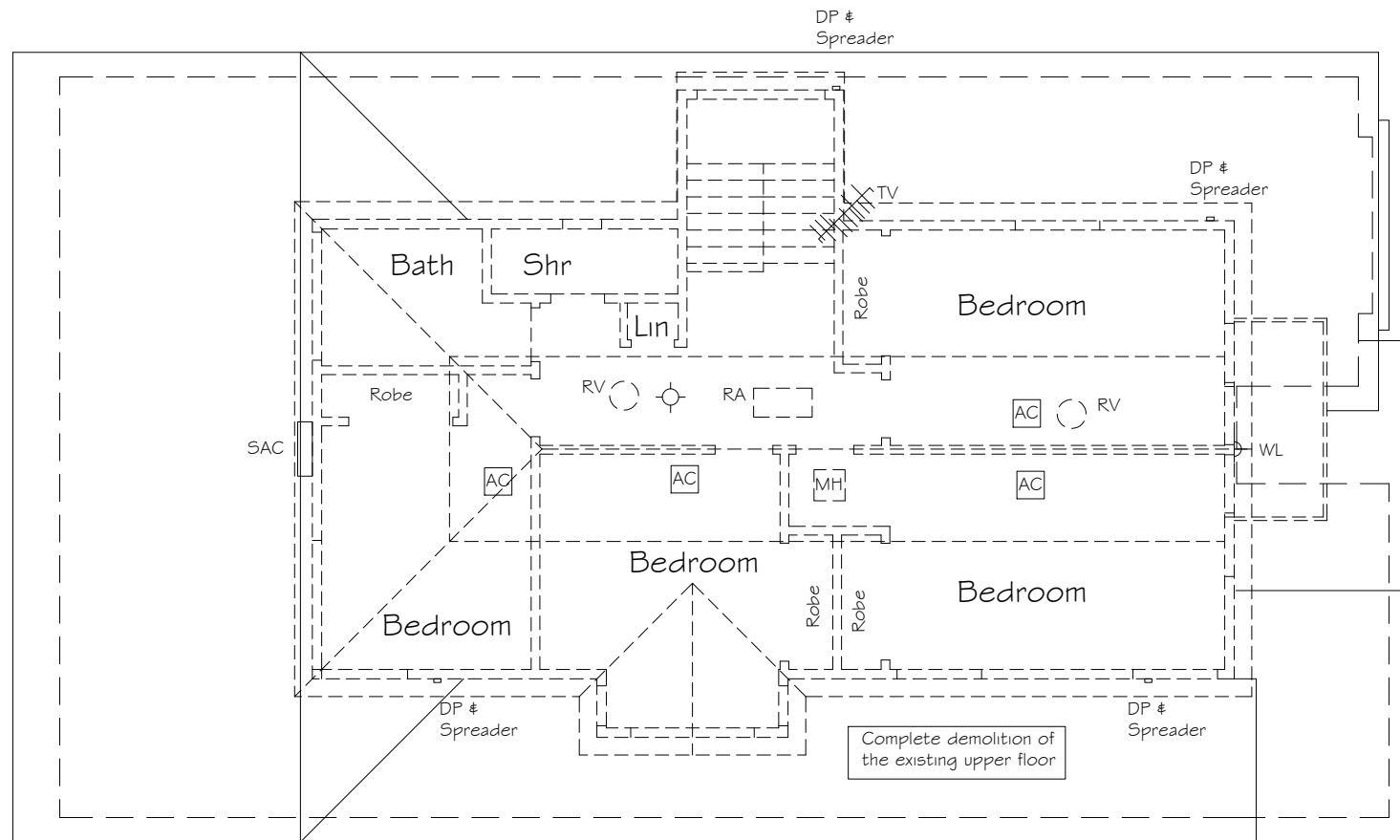
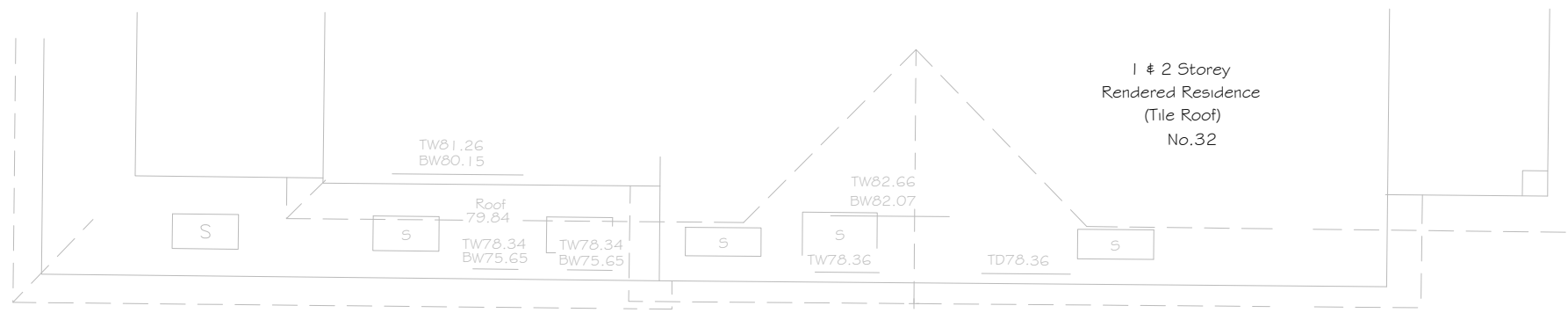
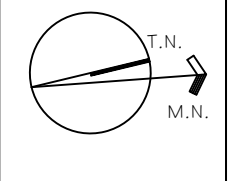
**Proposed Ground Floor Plan**

**AMENDED PLANS**



**Legend**

- SAC  Air Conditioning Compressor
- DP  Downpipe
- AC  AC Ceiling Grille
- MH  Manhole
- RA  Return Air Grill
- RV  Roof Ventilator
-  Smoke Detector - Existing
- T.V.  TV Antenna - Owner to relocate as required
- WL  Wall Light



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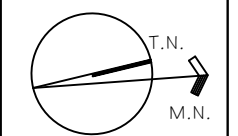
Existing First Floor - Demolition Plan

**AMENDED PLANS**

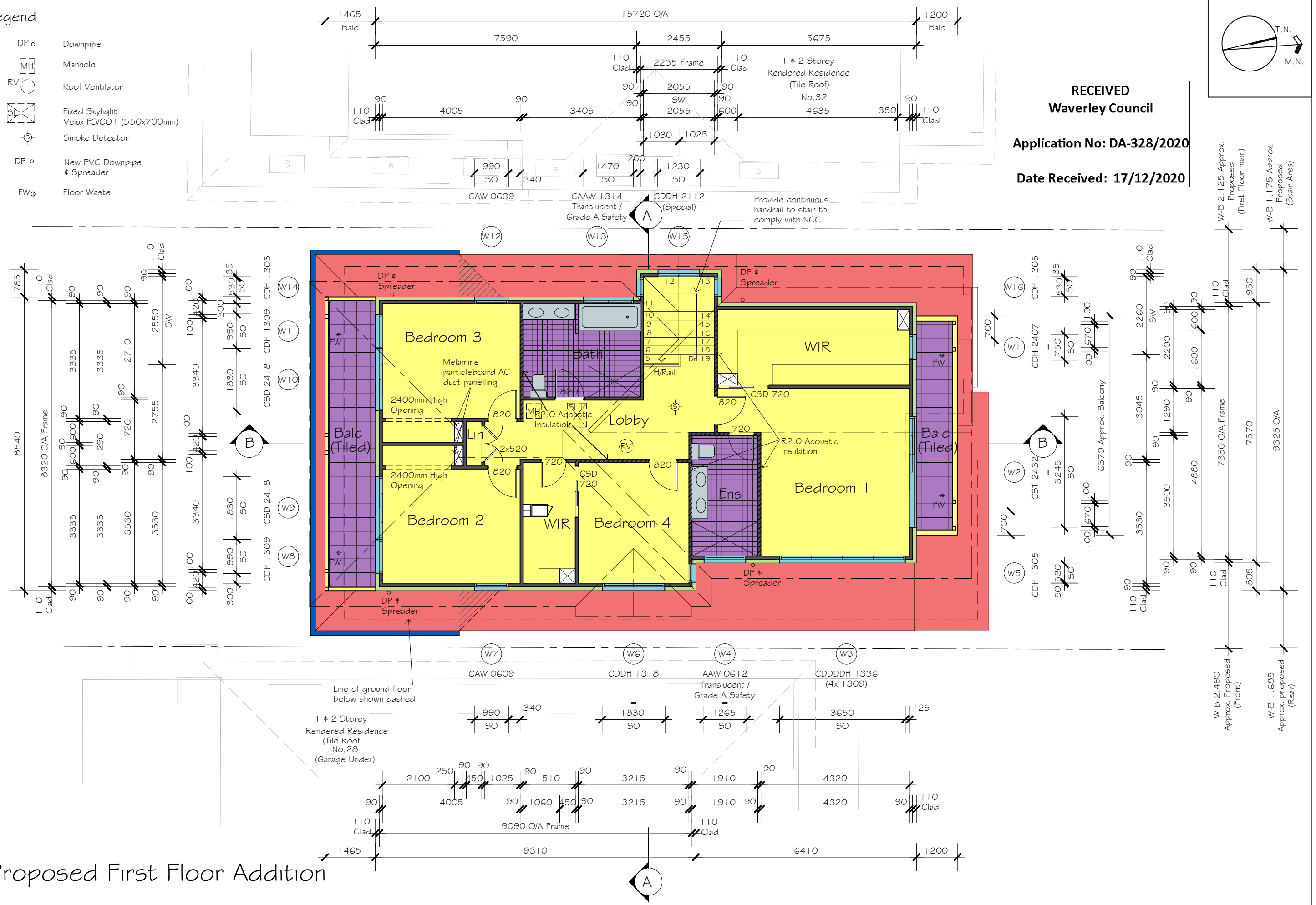
# AMENDED PLANS

## Legend

- DP o Downpipe
- MH Manhole
- RV Roof Ventilator
- Fixed Skylight Velux FS/CO1 (550x700mm)
- Smoke Detector
- DP o New PVC Downpipe & Spreader
- FW Floor Waste



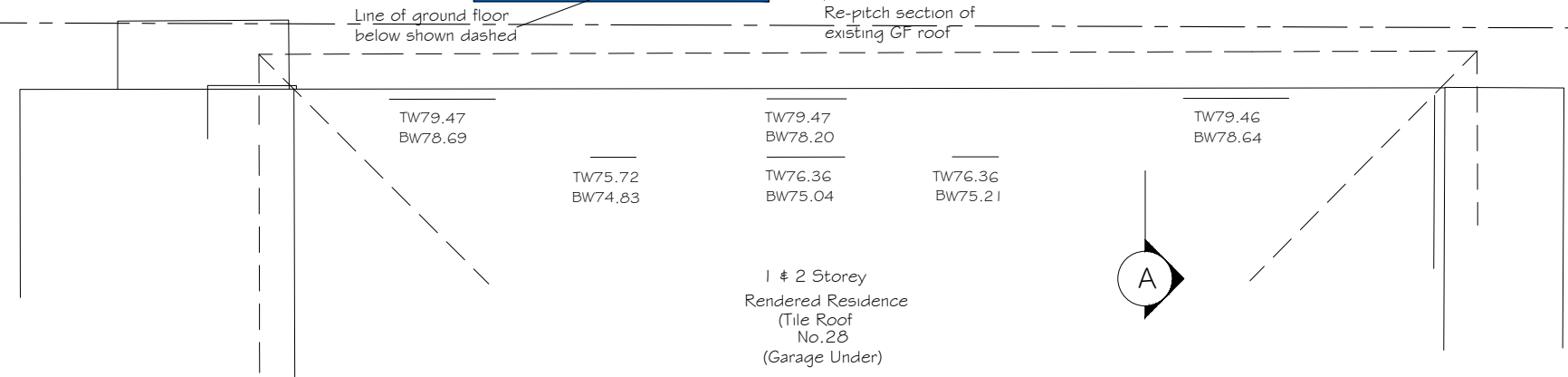
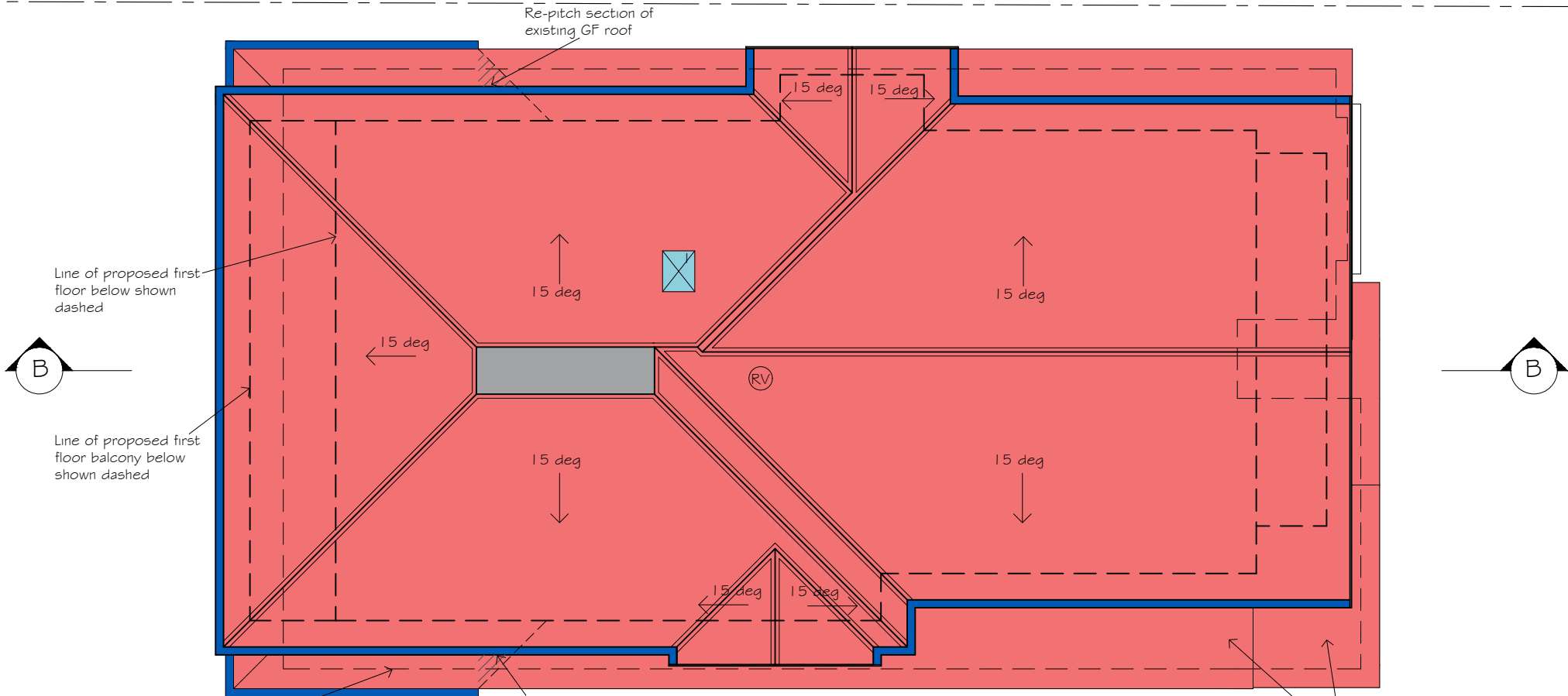
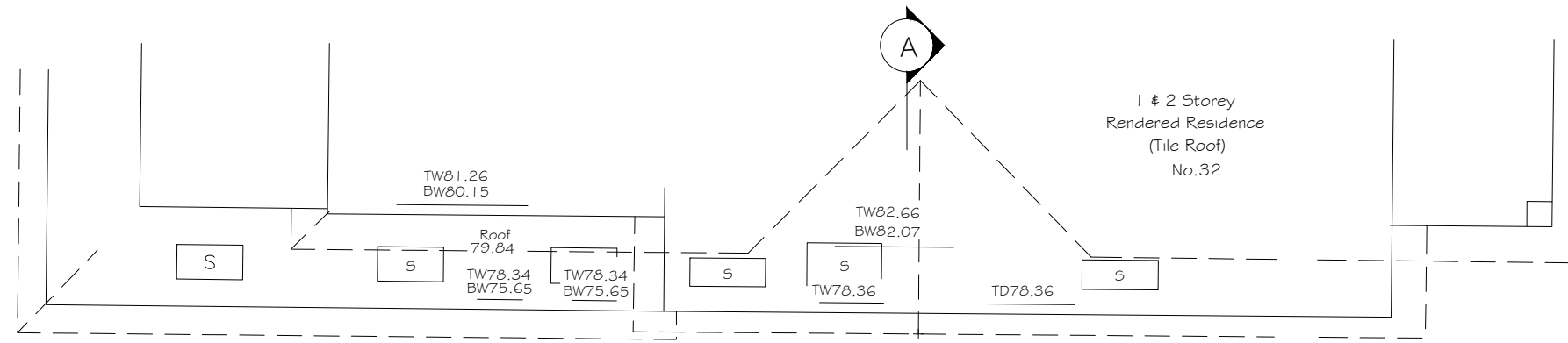
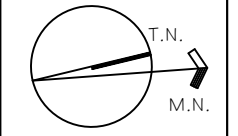
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## Proposed First Floor Addition

Legend

- RV  Roof Ventilator
-  Fixed Skylight  
Velux FS/CO1 (550x700mm)



Retile remainder of existing ground floor roof with Wunderlich "Nullarbor" profile terra-cotta tiles with A-line ridge capping

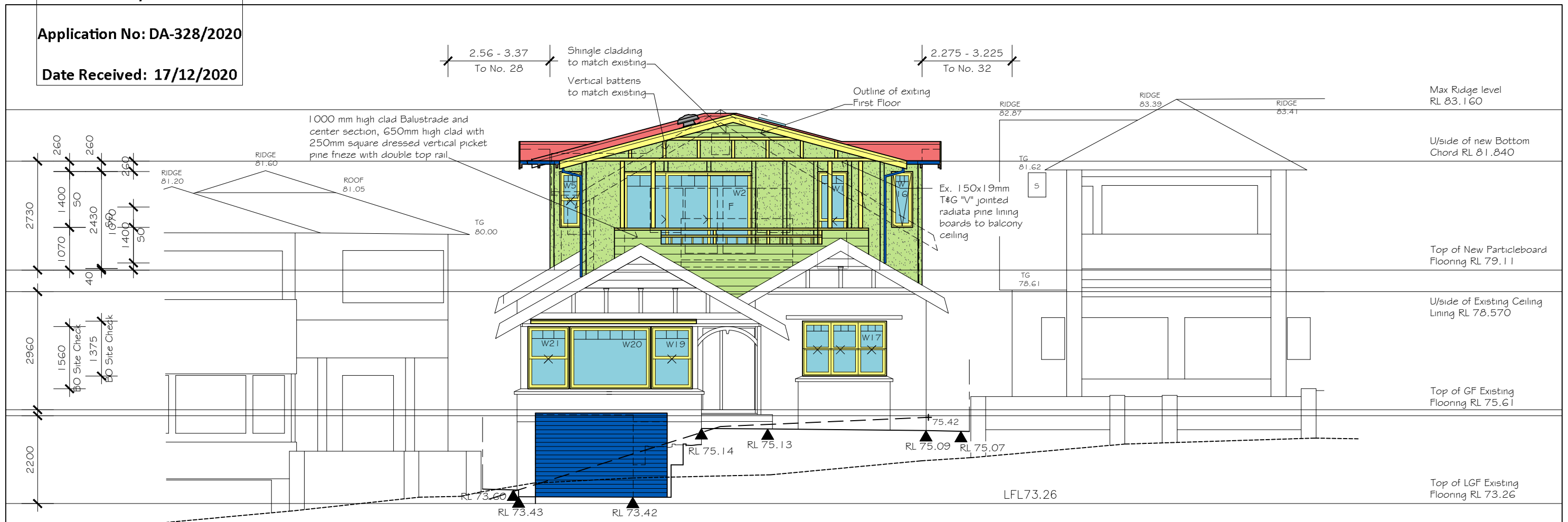
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Proposed Roof Plan

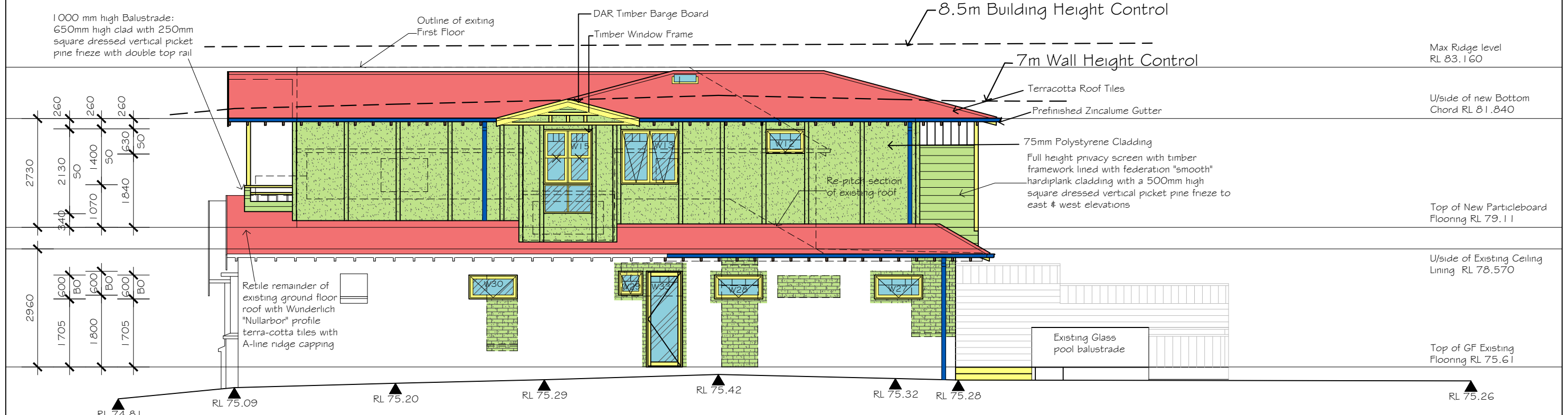
**AMENDED PLANS**

Application No: DA-328/2020

Date Received: 17/12/2020

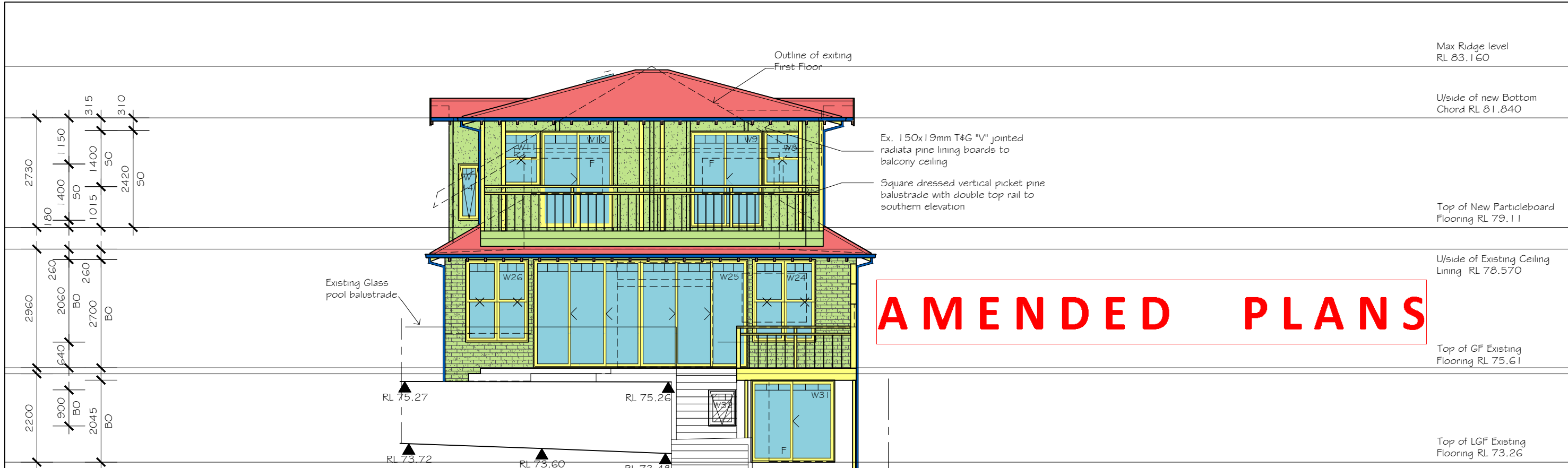


North Elevation



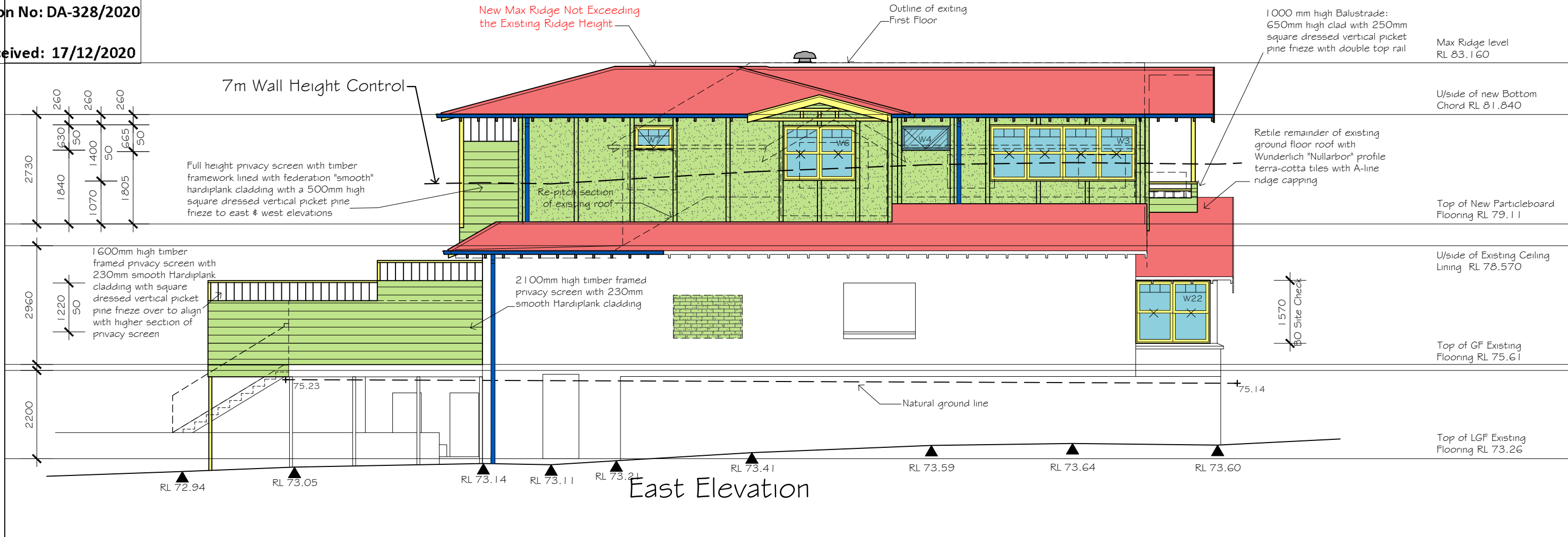
West Elevation

**AMENDED PLANS**

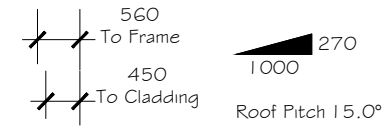
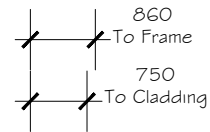


South Elevation

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East Elevation



Max Ridge level  
RL 83.160

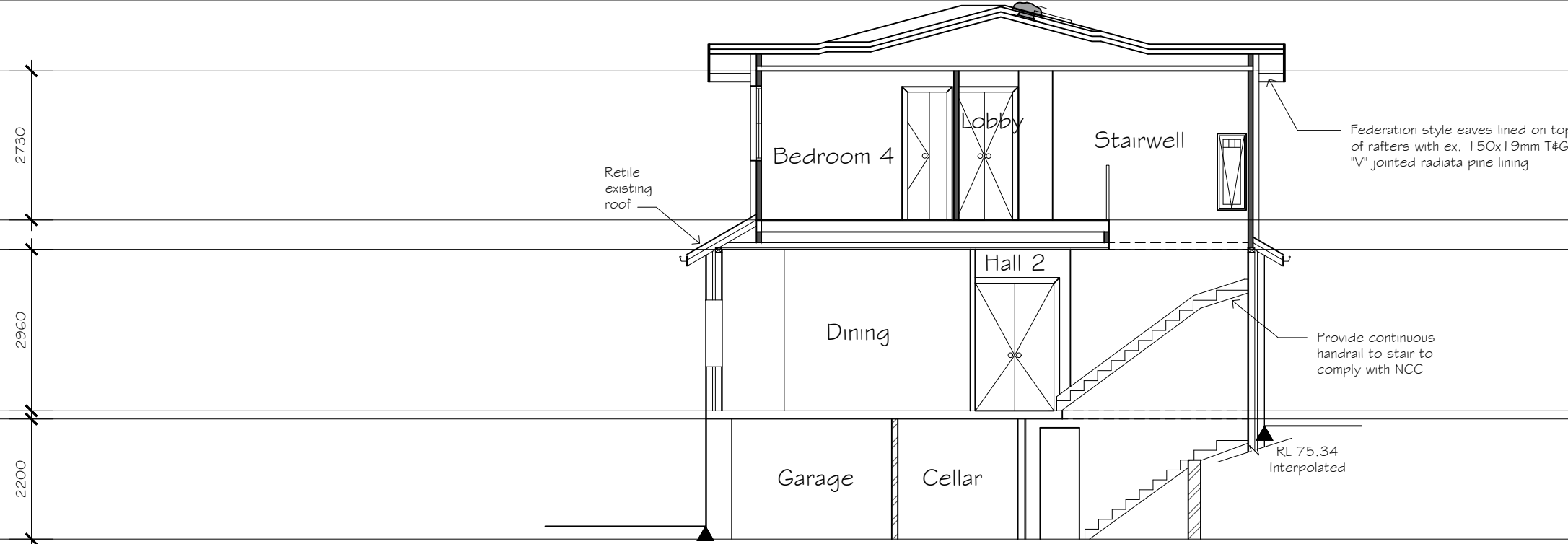
U/side of new Bottom  
Chord RL 81.840

Top of New Particleboard  
Flooring RL 79.11

U/side of Existing Ceiling  
Lining RL 78.570

Top of GF Existing  
Flooring RL 75.61

Top of LGF Existing  
Flooring RL 73.26



Section A-A

8.5m Building Height Control  
beyond the lower ground floor

New Max Ridge Not Exceeding  
the Existing Ridge Height

Max Ridge level  
RL 83.160

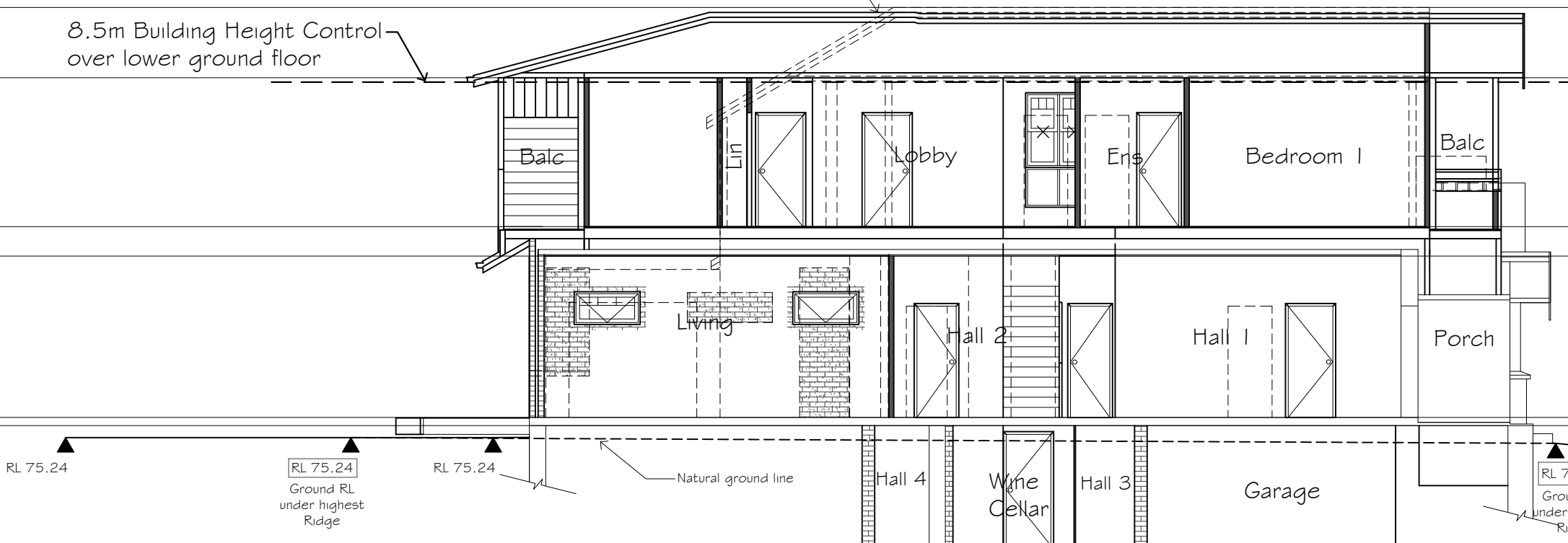
8.5m Building Height Control  
over lower ground floor

U/side of new Bottom  
Chord RL 81.840

Top of New Particleboard  
Flooring RL 79.11

U/side of Existing Ceiling  
Lining RL 78.570

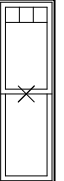

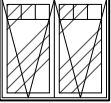
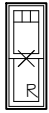



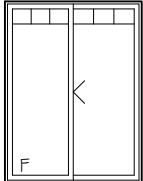
Top of GF Existing  
Flooring RL 75.61



Section B-B

**AMENDED PLANS**

# AMENDED PLANS

FIRST FLOOR WINDOW SCHEDULE (BASIX A379475)		CLIENT: ..... CLIENT: ..... BUILDER: ..... DATE: .....			TIMBER WINDOWS: TIMBER WINDOWS, DOOR FRAMES AND DOORS ARE TO BE SUPPLIED CLEAR PRIMED INSIDE AND OUT FOR A PAINT/STAINED FINISH. STANDARD HARDWARE COLOURS: BLACK, BROWN, SATIN NICKEL & WHITE. TERRAIN: 3    WIND LOAD: W 28 N								
STANDARD NOTES: • WINDOWS AND DOORS ARE DRAWN AS VIEWED FROM OUTSIDE • ALL WINDOWS COME WITH "KEYED ALIKE" LOCKS • WINDOW OPENINGS NOTED "R" HAVE RESTRICTED OPENINGS TO COMPLY WITH THE NCC 3.9.2.5													
		(W1) CDH 2407 N ELEVATION / WIR WESTERN RED CEDAR DOUBLE HUNG OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL			(W10) CSD 2418 S ELEVATION / BEDROOM 3 WESTERN RED CEDAR SLIDING OPEN / FIXED	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL		
		(W2) CST 2432 N ELEVATION / BEDROOM 1 WESTERN RED CEDAR STACKING OPEN / OPEN / FIXED	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL			(W11) CDH 1309 S ELEVATION / BEDROOM 3 WESTERN RED CEDAR DOUBLE HUNG OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES		
		(W3) CDDDDH 1336 (4x 1309) E ELEVATION / BEDROOM 1 WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN / OPEN / OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL RESTRICT BOTTOM SASH OPENING TO 125mm TO COMPLY WITH NCC.			(W12) CAW 0609 W ELEVATION / BEDROOM 3 WESTERN RED CEDAR AWNING OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL		
		(W4) AAW 0612 E ELEVATION / ENSUITE ALUMINIUM AWNING OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL 130mm	GLAZING G.38 LAMINATED TRANSLUCENT REVEAL 130mm	SPECIAL NOTES GRADE A SAFETY GLASS TO MEET NCC REQUIREMENTS			(W13) CAAW 1314 W ELEVATION / BATH WESTERN RED CEDAR AWNING OPEN / OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED TRANSLUCENT REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL GRADE A SAFETY GLASS TO MEET NCC REQUIREMENTS		
		(W5) CDH 1305 N ELEVATION / BEDROOM 4 WESTERN RED CEDAR DOUBLE HUNG OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL RESTRICT BOTTOM SASH OPENING TO 125mm TO COMPLY WITH NCC.			(W14) CAW 1305 S ELEVATION / STAIR WESTERN RED CEDAR AWNING OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL		
		(W6) CDDH 1318 E ELEVATION / BEDROOM 4 WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR LOW-E REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL RESTRICT BOTTOM SASH OPENING TO 125mm TO COMPLY WITH NCC.			(W15) CDDH 2112 W ELEVATION / STAIR WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN / FIXED / FIXED	COLOUR INSECT SCREEN N/A REVEAL N/A	GLAZING G.38 LAMINATED TRANSLUCENT LOW-E REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL "CATHEDRAL GLASS" OBSCURE GLAZING		
		(W7) CAW 0609 E ELEVATION / BEDROOM 2 WESTERN RED CEDAR AWNING OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL			(W16) CAW 1305 N ELEVATION / STAIR WESTERN RED CEDAR AWNING OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR LOW-E REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL		
		(W8) CDH 1309 S ELEVATION / BEDROOM 2 WESTERN RED CEDAR DOUBLE HUNG OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES								
		(W9) CSD 2418 S ELEVATION / BEDROOM 2 WESTERN RED CEDAR SLIDING FIXED / OPEN	COLOUR INSECT SCREEN ALUMINIUM FIBREGLASS MESH PEARL WHITE REVEAL N/A	GLAZING G.38 LAMINATED CLEAR REVEAL N/A	SPECIAL NOTES "MOUNT LAWLEY BAR" DETAIL								
FOR: MR R DEVERELL & DR I INDER			AT: 30 YANKO AVENUE, BRONTE 2024			SCALE: 1 : NTS		SHEET: 2 OF 13		JOB NO: 8046		F	RECEIVED Waverley Council Application No: DA-328/2020 Date Received: 17/12/2020

GROUND FLOOR WINDOW SCHEDULE (BASIX A379475)			CLIENT: .....			ALUMINIUM (STEGBAR) WINDOWS:			TIMBER WINDOWS:		
STANDARD NOTES: <ul style="list-style-type: none"> <li>WINDOWS AND DOORS ARE DRAWN AS VIEWED FROM OUTSIDE</li> <li>ALL WINDOWS COME WITH "KEYED ALIKE" LOCKS</li> <li>WINDOW OPENINGS NOTED "R" HAVE RESTRICTED OPENINGS TO COMPLY WITH THE NCC 3.9.2.5</li> </ul>			CLIENT: .....			STANDARD ALUMINIUM COLOURS: ANODISED CLEAR, APO GREY, CUSTOM BLACK, JASPER, MONUMENT, NOTRE DAME, PEARL WHITE, PRIMROSE, STONE BEIGE, SURFMIST, WOODLAND GREY.			TIMBER WINDOWS, DOOR FRAMES AND DOORS ARE TO BE SUPPLIED CLEAR PRIMED INSIDE AND OUT FOR A PAINT/STAINED FINISH.		
			BUILDER: ..... DATE: .....			CUSTOM COLOURS AVAILABLE: DEEP OCEAN, HAMERSLEY BROWN, POTTERY.			STANDARD HARDWARE COLOURS: BLACK, BROWN, SATIN NICKEL & WHITE.		
									TERRAIN: 3 WIND LOAD: W 28 N		
	W	COLOUR	GLAZING	SPECIAL NOTES		W	COLOUR	GLAZING	SPECIAL NOTES		
	W17 CDDH 1375x 2105 3x(1375x700) N ELEVATION / GUEST BED WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN / OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR LOW-E REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK		W26 CDDH 2015 S ELEVATION / LIVING WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL		
	W18 CDDH 2x(1570x865) W ELEVATION / SUNROOM WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK		W27 CAW 0612 W ELEVATION / LIVING WESTERN RED CEDAR AWNING OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL		
	W19 CDH 1570x1030 N ELEVATION / SUNROOM WESTERN RED CEDAR DOUBLE HUNG OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR LOW-E REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK		W28 CAW 0612 W ELEVATION / LIVING WESTERN RED CEDAR AWNING OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL		
	W20 CFW 1570x2015 N ELEVATION / SUNROOM WESTERN RED CEDAR FIXED	N/A	G.38 LAMINATED CLEAR LOW-E REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK		W29 CAW 0606 W ELEVATION / POWDER WESTERN RED CEDAR AWNING OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED TRANSLUCENT REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL "CATHEDRAL GLASS" OBSCURE GLAZING GRADE A SAFETY GLASS TO MEET NCC REQUIREMENTS		
	W21 CDH 1570x1030 N ELEVATION / SUNROOM WESTERN RED CEDAR DOUBLE HUNG OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR LOW-E REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK		W30 AAW 0612 W ELEVATION / SHOWER ALUMINIUM AWNING OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED TRANSLUCENT LOW-E REVEAL 170mm	GRADE A SAFETY GLASS TO MEET NCC REQUIREMENTS		
	W22 CDDH 2x(1570x865) E ELEVATION / SUNROOM WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR LOW-E REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK		W31 CSD 2045x2090 S ELEVATION / LAUNDRY WESTERN RED CEDAR SLIDING FIXED / OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL SITE CHECK ALUMINIUM SECURITY INSECT SCREEN DOOR		
	W23 Deleted					W32 CAW 900x675 S ELEVATION / WC WESTERN RED CEDAR AWNING OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED TRANSLUCENT REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL OBSCURE GLAZING SITE CHECK GRADE A SAFETY GLASS TO MEET NCC REQUIREMENTS		
<b>AMENDED PLANS</b>											
	W24 CDDH 2015 S ELEVATION / KITCHEN WESTERN RED CEDAR DOUBLE HUNG OPEN / OPEN	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL		W33 CDF 2409 W ELEVATION / POWDER WESTERN RED CEDAR HINGED DOOR OPEN		G.38 LAMINATED TRANSLUCENT REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL "CATHEDRAL GLASS" OBSCURE GLAZING GRADE A SAFETY GLASS TO MEET NCC REQUIREMENTS		
	W25 CST 2753/6 S ELEVATION / LIVING WESTERN RED CEDAR STACKING FIXED/ OPEN / OPEN/ OPEN / OPEN/ FIXED	ALUMINIUM FIBREGLASS MESH PEARL WHITE	G.38 LAMINATED CLEAR REVEAL N/A	"MOUNT LAWLEY BAR" DETAIL							

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